

MINUTES
OF THE
ENVIRONMENTAL PROTECTION COMMISSION
MEETING
APRIL 3, 2007

INGRAM OFFICE BUILDING
7900 HICKMAN ROAD
URBANDALE, IOWA

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MEETING MINUTES

CALL TO ORDER

The meeting of the Environmental Protection Commission was called to order by Chairperson Jerry Peckumn at 9:35 a.m. on April 3, 2007 in the Ingram Office Building, Urbandale, Iowa.

COMMISSIONERS PRESENT

Suzanne Morrow
Darrell Hanson
Jerry Peckumn, Chair
Mary Gail Scott
Francis Thicke, Vice Chair
David Petty – arrived at 10:00
Lisa Davis Cook, Secretary
Henry Marquard – arrived at 10:00

COMMISSIONERS ABSENT

Donna Buell

ADOPTION OF AGENDA

Jerry Peckumn asked that Item 9a – Referral to the Attorney General – Clifford Yentes be moved up after public participation.

Item 9c – Referral to the Attorney General – River Bluff resort has three parties that will have 15 minutes each to speak as well as a time for citizens of the area to speak.

Motion was made by Lisa Davis Cook to approve the agenda as amended. Seconded by Francis Thicke. Motion carried unanimously.

APPROVED AS AMENDED

APPROVAL OF MINUTES

Motion was made by Sue Morrow to approve the March 6th EPC minutes as presented. Seconded by Lisa Davis Cook. Motion carried unanimously.

APPROVED AS PRESENTED

DIRECTORS REMARKS

Director Richard Leopold said that the Governor is pushing the Iowa Power Fund. The Governor's office, legislators and our energy bureau have been offering a lot of good suggestions on energy efficiency, transportation fuels, power production, transmissions, inter-connection issues, etc.

There has been a lot of discussion internally as well as externally on water quality and water quantity planning. There are a couple of programs in the making that will be revealed in the next month or two.

Richard thanked the out going commissioners for their dedication and work in protecting the environment. Rich presented plaques to Lisa Davis Cook, Jerry Peckumn, and Francis Thicke.

INFORMATIONAL ONLY

NONPOINT SOURCE POLLUTION CONTROL PROJECT CONTRACTS

Becky Schwiete presented the following information.

Commission approval is requested for the following contract for a nonpoint source (NPS) pollution control project. The funds for this contract will come from the FY2004 Section 319 grant. Funding from other state and federal programs is also being used to support this project.

Iowa Department of Agriculture and Land Stewardship, Division of Soil Conservation (IDALS/DSC) Iowa Learning Farms Project, \$50,000.

This contract will support an ongoing project to increase awareness and adoption of conservation tillage systems through field demonstrations and educational programming. The project will lead to increased adoption of the demonstrated practices with a final result of reduced sediment and nutrient loads to surface water. Demonstration sites are being established in various locations across the state, and extensive soil and water quality monitoring will be conducted to document the effectiveness of the practices. Such field measurements are being utilized in the calibration of a surface water quality model, which include an economic analysis for assessing agronomic and water quality benefits and risks of different conservation practice scenarios. Contract funds will be used to support project staff, associated project costs, demonstration site establishment and monitoring costs.

Francis Thicke said that he would like to see cover crops included as part of conservation practices to help reduce nitrate leaching.

Mary Gail Scott said that it's hard to support a contract when the final results have not been documented. We need to see what's being done for the money that has been spent.

Becky Schwiete said that she will have a full report of data by the May meeting.

Motion was made by David Petty to approve the contract as presented. Seconded by Darrell Hanson. Motion carried unanimously.

APPROVED AS PRESENTED

CONTRACT – AYRES ASSOCIATES/YAHARA SOFTWARE - INTERNET DATABASE FOR COUNTY AND STATE ONSITE WASTEWATER PROGRAM

Brent Parker, Environmental Engineer Senior in the Wastewater Operations Section presented the following information.

The Environmental Protection Commission is requested to approve an agreement between the Department and **Ayres Associates/Yahara Software**. This contract is for a six month duration (from May 1, 2007 through October 15, 2007)

The funding for this contract comes from a \$150,000 IowaAccess grant and \$50,000 EPA Stag grant. This contract is for \$173,305 for the program development plus data migration work. The data migration work will be negotiated with the counties and is estimated at \$25,000 to \$50,000.

We received six bids for this RFP. The contractor chosen did not submit the low bid, however the selection committee decided that this was the best value based on the contractors qualifications and proposed work plan. The work plan proposed significant involvement with the counties as the program is developed which we believe will gain much needed buy-in and usage by the counties. Involving the counties in the development contributed to the higher cost. The selection committee also felt the selected contractor had a better understanding of the project and will produce a more acceptable product.

The contract will include a seminar to be given this fall for private consulting engineers and Departmental staff reviewing the development and use of the manuals.

Brent Parker said that this was not the lowest bidder but not the highest either. The cost of the contract is 20% of the evaluation for contractor selection. We were impressed with their scope of work. This company has a national reputation for working with on-site wastewater programs and sewer systems.

Motion was made by Henry Marquard to approve the contract as presented. Seconded by Francis Thicke. Motion carried unanimously.

Jerry Peckumn asked about the legislation dealing with illegal septic systems.

Brent Parker said that it passed the Senate and is on the House agenda. It's still active legislation.

APPROVED AS PRESENTED

CONTRACTS FOR ARCHEOLOGICAL AND/OR ARCHITECTURAL HISTORY SERVICES – STATE REVOLVING FUND

Chuck Corell of the Water Quality Bureau presented the following item.

The Department requests Commission approval of contracts with the following firms:

- Wapsi Valley Archeology
- The Louis Berger Group, Inc.
- The 106 Group, Ltd.
- SCI Engineering, Inc.

The purpose of the contracts is to provide archeological and/or architectural history services relating to State Revolving Fund-financed water supply and wastewater construction projects. DNR intends to execute contracts with these service providers on a retainer basis. As the need for specific archeological and/or architectural history investigations is identified, the DNR will solicit bid proposals from the selected contractors for the specific scope of work. The DNR will then select the most appropriate bid proposal and will execute an addendum to the contract with the selected contractor to provide the specific services. This will speed the process of contracting for these services which are often time-sensitive.

Drinking water and wastewater construction projects funded by the SRF are considered federal undertakings. Each project must either have a Categorical Exclusion (CX) or must demonstrate a Finding of No Significant Impact (FNSI), which must include documentation of the process of determining potential impacts on natural and cultural resources. Previously, the applicant was responsible to contract and pay for archeological and/or architectural history services.

Since November 1, 2006, the DNR's Environmental Review Services (ERS) Coordinator has been assisting SRF applicants by determining and issuing CXs, seeking clearances from consulting parties, contracting for archeological and/or architectural history investigations, preparing documentation for the State Historic Preservation Office, compiling the Environmental Information Documents, and issuing FNSIs.

Funding for these contracts will come from the administrative accounts of the Clean Water SRF and Drinking Water SRF programs. DNR may contract for Phase IA Survey or Phase I Survey archeological services and/or Reconnaissance Survey architectural history services as needed for specific applicant projects. If additional investigation or effort is required beyond those survey levels aforementioned, the cost and procurement of these surveys will be the responsibility of the SRF applicant.

DNR has projected that up to 60 investigations may be needed over the term of the contracts (April 15, 2007 – June 30, 2009), at an estimated total cost of \$180,000. The contracts are written to provide a not-to-exceed amount per firm of up to \$60,000 in order to give DNR

flexibility in choosing the appropriate contractor for each work effort, but the contracts do not constitute a commitment by DNR to award any contract addenda.

A selection committee of DNR staff, advised by staff from the State Historic Preservation Office, chose the contractors based on their experience working in Iowa, the firms' qualifications, their ability to complete assignments on time, their cost proposals, and their ability to provide both archeological and architectural history services.

Mary Gail Scott asked about the contract amount.

Chuck Corell said that each individual contract is a not to exceed amount but we expect the total to be around \$180,000.

Mary Gail Scott asked about the \$1,000 fee paid by the department for the contract. Is that a retainer?

Chuck Corell said yes, it's like a retaining fee so that they can remain "on call" for our project.

Mary Gail Scott asked Chuck to look into whether or not that \$1,000 would be applied to the overall contract amount.

Motion was made by Mary Gail Scott to table Item 6 - Contracts for Archeological and/or Architectural History Services – State Revolving Fund until the \$1,000 retaining fee can be answered. Seconded by Henry Marquard. Motion carried unanimously.

Motion was made by Lisa Davis Cook to untable Item 6 - Contracts for Archeological and/or Architectural History Services – State Revolving Fund. Seconded by Darrell Hanson. Motion carried unanimously.

Chuck Corell said that the \$1,000 is an advanced payment and will be applied to the amount of the contract.

Motion was made by Mary Gail Scott to approve Item 6 – Contracts for Archeological and/or Architectural History Services – State Revolving Fund as presented. Seconded by Francis Thicke. Motion carried unanimously.

APPROVED AS PRESENTED

PUBLIC PARTICIPATION

GREG SINDT, with Bolton & Menk, Inc commented on Chapter 61 – Proposed Rule - Water Quality Standards. Our technical review staff meet with the DNR regarding this approach. We felt that the DNR did an appropriate job in developing a technical approach in taking the EPA guidelines and fitting them for Iowa. The DNR needs to take the federal guidelines and tailor them to our state, it's not EPA's dictate the standards to us. The technical advisory meeting decided that we need some more time to review this so more issues can be addressed. Subsequently, the DNR staff notified the technical advisory committee that the decision was made to proceed with the federal EPA guidelines, rather than to amend them to state specific. I

feel that is a mistake. We should delay action on this rule, until the technical advisory committee can meet again.

NEILA SEAMAN, president of the Sierra Club said that we were pleasantly surprised and thankful to see that the DNR incorporated the Sierra Club's recommendations for wetlands. We would like to point out our concerns with mitigation. The Corp of Engineers standards for mitigation did not consider the function and ecosystems for the wetlands being lost. We encourage the DNR to review mitigation plans for each project to ensure that resources are appropriately replaced and not simply accepted.

SARA BIXBY, Executive Director of the South Central Iowa Solid Waste Agency said that she asked the Solid Waste Association of North America (SWANA) their view on liner standards. The letter passed out gives that position. It essentially says that it is time for Iowa's landfills, regardless of size to move forward and start complying with the federal regulations. The new Chapter 113 rules are a good start. The October 2007 is a good deadline for liners. We are looking forward to the rules that will becoming before you in June. We hope at that time you will be able to approve them.

Henry Marquard asked that the regulated community get together and reach as much consensus as possible. The more unity, the better it would be to present the case.

PAM MACKEY TAYLOR, Chair of the Iowa chapter of the Sierra Club addressed the River Bluff Resort referral. We support this referral to the Attorney Generals' office and asked that it be done without further delay. We also ask in this case that criminal penalties be considered. The DNR has spent significant amounts of money in protecting and redeveloping Sny Magill as a trout stream. People from all over the state enjoy that trout stream. It only takes one careless, unprofessional cavalier developer to destroy a trout stream. That's why we believe that civil and criminal penalties are necessary. River Bluff has a lot of history in this area. It started with a developer in California and seeing the free money offered by Vision Iowa to build a hotel, golf course and housing development. It was obvious from the beginning to see that the developer did not have money for the project. So it's no surprise that the developer has no money to do the stabilization of stream banks. In conclusion, we support referral to the Attorney General's office without further delay for both civil and criminal penalties.

STEVE VEYSEY, with Hawkeye Fly Fishing Association presented his concerns on the following items.

Item 5 – Internet database for tracking On-site wastewater systems – General Permit #4

Support. Thank Mr. Parker and others in the department for their efforts to initiate better tracking, oversight, and hopefully compliance with NPDES General Permit #4. I wish General Permit #4 did not exist.

Item 7 – 401 Certification of Section 404 Nation Wide Permits

There are too many of these blanket nation-wide permits. I wish that Iowa were in a position to simply deny 401 certification of these blanket permits and that we had adequate staff to properly review each case. We don't. I would like to thanks Ms. Schawake and others in the department

for being receptive to the comments made by the Sierra Club and IEC and incorporating some of those suggestions into the final rule.

Item 9 – Referral of River Bluffs Resort, et al to the Attorney Generals Office for damages cause to Sny Magill trout stream in Clayton County

We support the action taken by Mr. Tormey and others in the Department for taking strong action, perhaps not quick action, to protect Sny Magill.

Item 10 – Modifications to the Non-point Source Pollution Control Set-Aside programs

We generally support the modifications proposed and would like to thank Ms. Cale-Finnigan and others in the department for there efforts to improve the program. However, I would like to point out that in two places modifications use the term “and/or”. “And/or” needs to be changed to just “and”. Otherwise you may be giving loans WITHOUT requiring facilities to provide water pollution control as required by the department, and you may be giving loans WITHOUT requiring owners of existing AFO’s (animal feeding operations) to meet state and federal requirements.

Item 11 – Chemical Criteria Updates for B (WW1, 2 and 3) warmwater streams

We strongly support the action taken by the Director to break the logjam that has been holding up the EPA approval of the water quality standards this Commission approved in January 2006. This one is worth repeating. We strongly support this action taken by the Director. However, this same approach needs to be extended to the B(CW2) designation for coldwater streams. It has been well over two years since this designation was created, yet not a single stream has put forward for this clarification, because no chemical criteria have yet been adopted. This needs to be fixed.

Item 12 – Total Dissolved Solids and Chloride Update

Unfortunately, we are disappointed with the lack of progress that has been made in addressing the six recommendations give by the Commission to the department three years ago. This work, all of it, should have been completed by now. However, if it were just a matter of missing the timeline a bit I might not be so concerned. There are statements in the report, presented as fact that I believe as wrong and/or misleading. That disturbs me.

Unfinished business

There is so much unfinished business. There are more than fifty potential candidates awaiting designation as cold water streams, the highest level of aquatic life protection. Most of them, previous to last years rule making, were classified as “general”, which provides the absolute lowest level of aquatic life protection.

We still have not seen the first draft of antidegradation rules, yet the Commissioners were told at the EPC meeting in Dubuque that the draft existed, and had been vetted by the departments attorneys.

The UAA process is a huge question mark for us. We remain very concerned that the department may make recommendations to the Commission without having adequate information about the actual uses being made of those rivers and streams. I’m aware of their

efforts, but their goal has to be to get the job done in the timeframe and with the resources they have been given. The entire permit process depends on it. Our goal, is to make sure that the job gets done completely, so that all of the existing and attainable uses for all of the stream segments are identified, completely, and protected. To that end the Sierra Club, with several partners has initiated a Stream Uses Outreach Project, to proactively reach out to the communities, schools, and organizations to get written testimony about specific uses made of specific stream segments. We are looking for more partners. We are looking for moral support and recognition of the value of or efforts. For examples, I would greatly appreciate having a resolution of support from this Commission.

JEANNE ROBBINS, from Clemons stated here concerns with the proposed Iowa Select hog confinement near the Minvera valley which is a very pristine area. The American brook lamprey does exist in our stream. The newly proposed location of the Iowa Select hog site has been moved on top of the Jordan aquifer which is uphill. This is not a good site environmentally.

In July of 1997, a manure spill in Crane Creek killed 1,900 fish, including 302 American brook lamprey, a threatened species in Iowa. There had been reported signs of the lamprey in the Minvera valley. This is a non parasitic, cool water indicator. Global warming is a major concern to the environmentalists with rising water temperature. Since the lamprey is susceptible to degraded conditions, it is important to protect them as indicators for water temperatures.

Manure from CAFO's is a major source of nitrogen and phosphorus. This creates a hazard and risk that the EPC should addressed. There are three proposed locations in Clemons for the hog site. One spill from this CAFO and it would endangered the American brook lamprey.

Henry Marquard asked if the construction permits have been approved.

Jeanne Robbins said that no construction permit is needed since they are all below the threshold.

Jerry Peckumn said that this may be a case where the department could use the department discretion rule since this does sound like a very high quality water resource.

Henry Marquard also suggested looking into the ownership of the sites.

David Petty said that moving the site from the bottom ground up to the ridge was probably not a good move but the Jordan aquifer would also be under the whole area.

-----End of Public Participation-----

**REFERRALS TO THE ATTORNEY GENERAL'S OFFICE – CLIFFORD YENTES/
CLIFFORD YENTES TRUST (COUNCIL BLUFFS) – SOLID WASTE AND
UNDERGROUND STORAGE TANKS**

Jon Tack said that Clifford Yentes owns and operates an illegal solid waste landfill and salvage yard in Council Bluffs. Clifford has ignored the prohibitions against improper solid waste disposal for at least 30 years. Mr. Yentes continues his illegal activity despite the multiple enforcement actions.

In November 1978, Mr. Yentes was issued an Administrative order (AO) for operation of two illegal landfills and illegal open burning.

In 1985, Mr. Yentes was issued an AO to stop operating an open dump.

In 1994, it was later referred to the AG's office and they obtained a consent order in 1994 with a \$5,000 penalty and the agreement that Mr. Yentes stop operating an open dump.

In 2006, the department received a complaint alleging the improper disposal of solid waste at a site owned by Mr. Yentes.

From the pictures distributed today, you can see the view from the top and beautiful surroundings of the Loess Hills. The solid waste materials can be seen from the road down below. In addition to rubble, waste tires, appliances, furniture, shingles, insulation, railroad ties, old underground storage tanks and various construction and demolition waste has been observed.

In talking with Mr. Yentes about not complying with past orders, he has said that he is a stubborn man and does not like to be told what to do. That doesn't make me very optimistic about him fixing this, though it's honorable to see an older gentleman working very hard. When I look at the fact that he has paid a \$5,000 penalty after a court order in the mid 90's and that didn't have him stop what he was doing. He has promised me that he will take care of his problems but I don't think we can look back at 30 years of history and accept that as good enough. We need to have an enforcement action that will force him to come into compliance, such as referral to the Attorney General's office.

Commissioners asked questions regarding the size of the site, who Mr. Yentes clients are, etc.

Mr. Clifford Yentes said he observed his neighbors operation of collecting solid waste and followed what he did. I do not know why I should be penalized any differently. Being a US citizen, I thought I had several rights. I know I need to clean up the site because of the illegal claims. We are trying to help cover up the rubble that was previously left on the site but I did agree to buy it in that condition. I have been in operation since the 70's. In order to clean up the site, I plan to cover up all of rubble. The tanks that are on site right now are empty. I don't know where the line is when it comes to illegal items.

<i>Motion was made by Darrell Hanson to refer Clifford Yentes to the Attorney General. Seconded by David Petty. Motion carried unanimously.</i>

Henry Marquard encouraged the Attorney General's office to also consider the recovery costs of the cleanup.

REFERRED

**FINAL RULE - CHAPTER 61, WATER QUALITY STANDARDS, SECTION 401
CERTIFICATION OF SECTION 404 NATIONWIDE PERMITS (NWPs)**

Charles Corell, Bureau Chief of the Water Quality Bureau presented the following item.

Pursuant to the authority of Iowa Code sections 455B.105 and 455B.173, Commission approval is requested for the Final Rule that will amend Chapter 61: Water Quality Standards to provide Section 401 water quality certification for 49 Corps of Engineers Nationwide Permits. Section 401 water quality certification is a state water quality agency's certification that a proposed activity will not violate state water quality standards.

The Corps issued the final nationwide permits, general conditions, and definitions in the March 12, 2007 Federal Register. These nationwide permits, general conditions, regional conditions, and regional permits will become effective on March 19, 2007. The states are given 60 days (until May 11, 2007) to complete rule-making activities and provide water quality certification. A copy of the March 12, 2007 Federal Register with the final NWPs can be obtained from the Department of Natural Resources (DNR).

A public hearing was held on December 26, 2007. Two individuals representing the Iowa Chapter of the Sierra Club and the Iowa Environmental Council were present. Comments to the proposed rule changes were received both orally at the public hearing and in writing. The comments received ask the DNR to work with the Corps to provide the highest level of protection for Iowa's waterbodies as possible. The comments received are summarized in the attached Responsiveness Summary.

At the time the Notice of Intended Action was published, the Corps had not finalized the NWPs. The Corps adopted the NWP final rules on March 12, 2007 and some of the NWPs differ from the NWPs as originally proposed by the Corps. The six new nationwide permits will be numbered 45-50 (instead of A-F as they appeared in the September 26, 2006 Federal Register).

The preamble to the final rule addresses changes to Chapter 61 made as a result of the comments received from the Sierra Club and Iowa Environmental Council.

Mary Gail Scott asked if we were protecting at the highest level?

Chris Schwake said that we do look at the water body at its highest level of protection. I will do my best to protect Iowa's waterbodies.

<i>Motion was made by Henry Marquard to approve the final rule for Chapter 61 as presented. Seconded by Sue Morrow. Motion carried unanimously.</i>

APPROVED AS PRESENTED

PROPOSED RULE – CHAPTER 93 – NONPOINT SOURCE POLLUTION CONTROL SET – ASIDE PROGRAMS

Chuck Corell, Bureau Chief of the Water Quality Bureau presented the following item.

The notice of intended action for changes to Chapter 93 “Nonpoint Source Pollution Control Set-Aside Programs” is being presented to the Environmental Protection Commission for information. The changes primarily affect the Livestock Water Quality (LWQ) Facilities program, which, as part of the Clean Water State Revolving Fund, provides low-interest financing to eligible animal feeding operations for manure management structures, equipment, and plans.

A new facility design, which appears to be environmentally beneficial, is the bedded confinement building, or deep-bedded building. The current rules for the LWQ program do not allow for financing these structures. The Department is proposing to allow financing of these types of roofed facilities under certain conditions as outlined in the draft rules.

Other proposed changes include the following items:

- A restating of the purpose of the program to include pollution prevention;
- Updating the date for the federal definition of a Concentrated Animal Feeding Operation in both the LWQ and the Local Water Protection Program;
- Clarification of the descriptions of eligible practices;
- Referencing the definition and requirements of manure management plans in 567 Chapter 65;
- Updating the requirements for project approval and removing the option of departmental review of plans and specifications;
- Allowing financing of updates to manure management, nutrient management, or comprehensive nutrient management plans as part of project financing;
- Adding a requirement for recipient record-keeping; and
- Adding language allowing the establishment of loan fees in the Intended Use Plan.

A stakeholder meeting is scheduled for March 19, 2007 in order to solicit input from agricultural and environmental organizations. The notice of intended action will be presented to the Commission for decision at the May 1, 2007 meeting.

INFORMATION

PROPOSED RULE – CHAPTER 61 – WATER QUALITY STANDARDS

Chuck Corell, Bureau Chief of the Water Quality Bureau presented the following item.

The Commission will be presented with proposed changes to the state's water quality standards (WQS). These changes are being proposed as part of the ongoing review of Iowa's WQS.

The proposed NOIA will initiate action to:

- Change the current numerical criteria for 23 chemical parameters to protect aquatic life for the following designations: Class B(WW-1), Class B(WW-2), and Class B(WW-3). The new criteria are being proposed to reflect changes in guidance from the EPA.

The 23 parameters include: arsenic, cadmium, chromium, copper, lead, mercury, nickel, selenium, silver, zinc, cyanide, pentachlorophenol, aldrin, chlordane, 4,4'-DDT, endosulfan, heptachlor, heptachlor epoxide, toxaphene, aluminum, chlorine, lindane, and dieldrin.

- Update current numerical criteria for 53 chemical parameters for Class HH – Human Health to reflect the latest scientific data.

We are anticipating that there will be an effective rule package to EPA by this October. The Notice of Intended Action will be back for the Commission's approval next month.

Richard Leopold said that looking at the default standards that EPA has. They have a national scientific committee that has justification for these standards, if you vary from that you have to scientifically defense your standards.

INFORMATION

RULING ON DNR'S MOTION FOR SUMMARY JUDGMENT – CDI, LLC AND WINNEBAGO INDUSTRIES, INC.

Madonna McGrath, Attorney representing CDI, LLC, along with Steve Nelson, counsel for Winnebago Industries, presented their issues.

In about 2002, CDI came to Iowa and established a business in Forest City to custom paint recreational vehicles for Winnebago and other private customers. When CDI went to get the initial permit from the DNR, it was told that it was a single major source because it was adjacent to Winnebago Industries and under the common control of Winnebago. CDI, from that first opportunity in 2002, has appealed each and every permit that has been issued based on the fact that we disagree with the DNR's determination. Likewise, Winnebago Industries has also appealed their permits as being a major single source with CDI. All of these appeals and permits have been consolidated and went before an Iowa administrative law judge (ALJ). The issue before the ALJ and the Commission today is are they a major single source and how do you get

there. Two or more emission sources can be considered a single source if they meet all of the three following criteria:

1. They have to be located on adjacent and continuous properties
2. They have the same SIC codes
3. They are under common control.

As we proceeded in these proceedings, we have not challenged the fact that CDI and Winnebago have facilities that are adjacent to each other nor does the fact of the same SIC code for the purposes of this notion for summary judgment.

We have concentrated on the issue of common control. Before the ALJ we had discovery among the parties, but before we were ever heard on the merits of our appeals, the ALJ granted DNR's motion for summary judgment. The ALJ held that Winnebago has the power to direct the management and policies of CDI and therefore Winnebago and CDI are under the common control of Winnebago. Today you have a large task of determining whether or not the ALJ properly granted summary judgment to the DNR. Winnebago and CDI are here individually and collectively to respectfully request that you reverse the ALJ's decision and remand the matter back for a full hearing on the merits. There are serious disputes of law in case. For example, the parties have had no opportunities to present evidence regarding the regulatory intent of common control when it was first introduced by US EPA in 1978 and reinforced in the new program in 1990. We would be presenting evidence to the ALJ in a hearing with regard to the latest moves by the DNR to use guidance letters that do not have the force and effective law that are inconsistent with each other.

Guidance is not really law, it can help with a decision but it cannot be the legal basis. The focus of EPA is on operational and ownership control of emission units. If you focus on the operational and ownership control of emission units, you will find that the answers to the following questions give you the definition of common control.

1. Does Winnebago own CDI? No
2. Does Winnebago have any monetary interest in CDI? No
3. Does CDI own Winnebago? No
4. Does CDI own any shares of Winnebago? No
5. Do the two companies have any common managers? No
6. Do the companies have any common board of directors? No
7. Do the companies have any common administrative functions? No
8. Does Winnebago control the air permit decisions of CDI? No

Those are the issues that you need to consider, which the ALJ did not. What CDI and Winnebago do have, like thousands of other vendors is a commercial business relationship that is based on specific non-management services provided by CDI to custom paint RV's produced by Winnebago and other private owners. We think it's important that you think about this from a different perspective as well. CDI and Winnebago are two independent entities who have a commercial relationship that is beneficial to each other and to their employees. We ask that you give us the opportunity to present this evidence.

Mr. Steve Nelson, Attorney representing Winnebago, presented the following information.

A couple of key points to focus on is the nature of the summary judgement. It is a process to short circuit the usual proceedings. The purpose of a trial is to bring in witnesses and evidence before a judge and jury so they can decide the facts and then apply the law. The summary judgement has applied in this case without listening to the facts. Another thing to remember is that when you are looking at granting summary judgement ruling, all of the facts and evidence have to be viewed in favor of the non-moving parties. In this case, it is our position that the ALJ jumped the gun in granting a summary judgement motion. The issue of common control is factual based whether there is actual control. Common control - is the power to direct or cause the direction of the management and policies of the second companies. If you look at the briefs filed by the DNR, they will admit that this is a case by case determination. After the ALJ reviewed the factors, she didn't go back and say okay this is what I believe happened. Does that really mean that Winnebago can control CDI? The ALJ didn't go back to the key factors. Another problem is that the ALJ's decision didn't say which factors tipped the scales. We don't know what the basis was for the decision. At one point, the DNR stated that CDI violated the permit in order to not breach a contract with Winnebago. With all due respect, that is not the issue. This doesn't even show common control. The factors themselves do not show common control. CDI does not control Winnebago.

Anne Preziosi, DNR Attorney, presented the following information.

Catharine Fitzsimmons, DNR Air Quality Bureau Chief was present.

John Knodel, EPA Region VII Air Permits and Compliance Branch, was present.

The Commission needs to take one of three actions: affirm the ALJ's decision, reverse it or modify it. The DNR requests that you affirm the proposed decision in its entirety. The proposed decision does two things: 1) it lays out the appropriate way to determine whether common control exists between two facilities and, 2) it correctly concludes that common control does exist between the CDI and Winnebago facilities.

CDI, LLC, (CDI) and Winnebago Industries, Inc., (Winnebago) each have filed several appeals concerning determinations made by the department that the two companies operate facilities in Charles City and Forest City, Iowa, considered to be major source stationary sources under Iowa's air quality laws. A total of twelve appeals were consolidated into one contested case proceeding.

On October 25, 2006, the department filed a Motion for Summary Judgment. On November 15, 2006, CDI and Winnebago filed a joint resistance to the Motion for Summary Judgment. On November 30, 2006, the department filed a reply to the joint resistance.

A Motion for Summary Judgment is properly granted if the "pleadings, depositions, answers to interrogatories, and admissions on file, together with affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." Iowa Rule of Civil Procedure 1.981(3).

On December 29, 2006, Administrative Law Judge Margaret LaMarche granted the department's Motion for Summary Judgment. The administrative law judge ruled that (1) the department carried its burden to establish that there is no genuine issue of material fact with respect to the single major stationary source determination and that (2) based on the facts, the department is entitled to judgment as a matter of law.

The department asked for summary judgment of its determination that the CDI and Winnebago sites in Charles City should be considered one single major stationary source and, likewise, that the CDI and Winnebago sites in Forest City should be considered one single major stationary source. Pursuant to 40 CFR 52.21(b)(6), in order to be one major stationary source, two sites must:

- a) belong to the same industrial grouping;
- b) be located on one or more contiguous or adjacent properties; and
- c) be under common control of the same person (or persons under common control).

In their joint Resistance to the Motion for Summary Judgment, CDI and Winnebago admitted that they (a) belong to the same industrial grouping, and (b) are located on contiguous or adjacent properties in both Forest City and Charles City. With respect to the third requirement, common control, the administrative law judge ruled that common control exists for both the Charles City and Forest City facilities, and that the department is entitled to judgment as a matter of law.

On January 9, 2007, CDI and Winnebago filed with the administrative law judge a joint Motion to Enlarge or Amend or Alternative Petition for Rehearing. On January 22, 2007, the department filed a Resistance to both motions. On January 24, 2007, the administrative law judge issued a ruling stating the administrative law judge lacks the authority to rule on the motions and that CDI and Winnebago must file any appeal or motions pertaining to the department's Motion for Summary Judgment with the Environmental Protection Commission within 30 days of their receipt of the "Ruling on DNR's Motion for Summary Judgment."

On January 30, 2007, CDI and Winnebago jointly appealed the Proposed Decision containing the "Ruling on DNR's Motion for Summary Judgment." Pursuant to a briefing schedule set by the Commission at its February 2007 meeting, Briefs were due on February 21, 2007, and Reply Briefs were due on March 12, 2007. The appeal of the Proposed Decision is on the agenda for the April 2007 meeting.

The term "common control" is not defined in the federal regulations and there is no relevant case law. However, EPA has issued a series of guidance documents to assist in determining whether or not common control exists. EPA outlined a number of indicators of common control which should be examined, according to EPA, on a case-by-case basis. The case by case approach makes the sum total of the specific facts of each case important. DNR has received support from Industry in Iowa for the case-by-case approach to common control using EPA guidance documents. In February 2004, the DNR issued a NOIA proposing to define "common control" and other PSD construction permitting terms. The NOIA was terminated in September 2004, because public comment from Iowa industries did not support the rulemaking. The withdrawal of the NOIA stated that the commenter's believed that the loss of flexibility would have made the PSD application review process more stringent. Likewise, in September 2006, the Iowa

Supreme Court issued an opinion that supports DNR's position that federal guidance documents may be used by Iowa's agencies to make case by case determinations. The ALJ cited that recent case in the Proposed Decision. In that case, as in this case, the federal guidance was contained in public documents that were readily available on the federal agency's website.

The second point made in the Proposed Decision is that, given the specific facts of this case, CDI and Winnebago are commonly controlled. Using the case-by-case approach, the ALJ reviewed the undisputed facts in this case and correctly determined that common control does exist between CDI and Winnebago.

Finally, CDI and Winnebago have argued that there are disputed facts that should have precluded summary judgment and that call for a fact finding hearing. First of all, all of the facts that were given to DNR were obtained from CDI or Winnebago or both. DNR did not have independent knowledge of those facilities. DNR used the facts that were given to us and applied the law to those facts. DNR does not dispute the facts. Second, a dispute of material fact would be required to preclude summary judgment or to necessitate a fact finding hearing in this case. A material fact is a fact that would affect the outcome of the decision. There are no disputes of the material fact in this case. The fundamental basis of DNR's position is that there are facts supporting numerous factors that lead DNR to the conclusion that CDI and Winnebago are commonly controlled.

EPA guidance documents direct that common control may be determined by reviewing contract terms and also be reviewing various other circumstance which may be present. For example, common control may be determined by looking at the manner in which activities at one facility influence or affect activities at the other facility. The ALJ correctly found that contract terms between CDI and Winnebago show that common control exists. Based on the language of two service contracts between CDI and Winnebago, one for Charles City and one for Forest City, the ALJ found the existence of common control.

1. contract language that grants CDI exclusive rights to provide painting services for Winnebago, and language that CDI agrees to provide the painting services and to at all times have its equipment and personnel available for Winnebago's products.
2. provisions in the service contracts that acknowledge that Winnebago could not perform the painting work itself and that Winnebago agreed not to perform the work itself or contract with another unless CDI was working at full capacity. If Winnebago expands, then Winnebago has to give CDI a reasonable opportunity to increase its own production capacity to meet Winnebago's increased painting needs. In exchange, CDI's outside work is restricted to work that is not in competition with Winnebago and that does not interfere with CDI's work for Winnebago.
3. the service contracts also provided that if the relationship between CDI and Winnebago were to deteriorate or terminate, then CDI will have no interest in continuing its operation in Forest City or Charles City.

Besides the contract relationship between CDI and Winnebago, the ALJ reviewed the way activities at Winnebago influence and affect activities at CDI. For example, the ALJ concluded that while CDI has done some supplemental work at both Charles City and Forest City, the

percentage of non-Winnebago work done by CDI is very limited and is 1.5 to 3.5 percent of CDI's total work.

Further, CDI made a management decision to exceed its permit limits and add unpermitted new equipment because Winnebago had increased its production and therefore CDI needed to do more work than the current permits would have allowed.

DNR has been consistent in both its approach to the common control decision making process and its determination that CDI and Winnebago are commonly controlled. EPA has supported, in writing, the DNR's position in this case on three different occasions.

DNR has issued separate Title V construction permits for each CDI and Winnebago facilities. The DNR will not hold the facilities responsible for violations of each other's permits.

DNR again asks that you affirm the Proposed Decision by the ALJ in its entirety. Summary Judgment was appropriately granted in this case.

Darrell Hanson asked how many indicators have been selected in order to determine if it is commonly managed.

Anne Preziosi said that each indicator is weighed differently, and it is the totality of the factors present that determine whether common control is present. The Proposed Decision stated that a specific number of factors was not necessary.

Mary Gail Scott and Catharine Fitzsimmons discussed the issue of separate permits and emission limits.

Madonna McGrath explained the permits for each facility and their limits. She said there seemed to be a lot of speculation in the ALJ's decision with regard to what would happen if Winnebago were to shut down and CDI somehow then potentially go out of business. That is what the contract deals with.

Henry Marquard said that there seems to be a definite issue of facts when it comes to making a summary judgment.

Anne Preziosi said that the DNR believes there are no issues of fact, and DNR used EPA's guidance documents and the law to determine the existence of common control.

The Commissioners and attorneys continued a discussion regarding the basis for/against summary judgment.

Motion was made by David Petty to move into closed session to discuss the interpretation of the facts. Seconded by Sue Morrow. Roll call vote went as follows: Henry Marquard – aye; Sue

Morrow – aye; Darrell Hanson – aye; David Petty – aye; Mary Gail Scott – aye; Francis Thicke – aye; Jerry Peckumn – aye. Motion carried unanimously.

-----Commission went into Closed Session-----

Motion was made by Henry Marquard to remand this matter back to the Administrative Law Judge because the motion for summary judgement was improper. Seconded by Darrell Hanson.

Henry Marquard said that he believes it should be remanded because the standard in this state as in all other states, is that a motion for summary judgement is granted only if there are no disputes of material law or fact. The ALJ made a decision based on inferences of facts presented without hearing live testimonies. There are material disputes of law and fact in this case. There is not information for a decision to be made.

Mary Gail Scott said that Winnebago controlled CDI's location and helped with funding of the land.

Darrell Hanson said that he does not believe there are enough indicators to support the ALJ's decision for summary judgement.

Roll call vote went as follows: Henry Marquard – aye; Darrell Hanson – aye; Francis Thicke – nay; Mary Gail Scott – nay; David Petty – aye; Sue Morrow – nay; Jerry Peckumn – nay. Motion fails.

Motion was made by Francis Thicke to affirm the ALJ's decision for summary judgement in its entirety. Seconded by Sue Morrow. Roll call vote went as follows: Darrell Hanson – nay; Francis Thicke – aye; Henry Marquard – nay; David Petty – nay; Sue Morrow – aye; Mary Gail Scott – nay; Jerry Peckumn – aye. Motion fails.

DNR RULING STANDS

REFERRAL TO THE ATTORNEY GENERAL'S OFFICE - RIVER BLUFF RESORT, LLC/ C.J. MOYNA & SONS, INC. / P.A. MCGUIRE CONSTRUCTION, INC.

Public Participation

Tim Mason introduced Erin Detmen, Jerry Thomas and Stan Thomas. They are the concerned citizens of Clayton County. There are two issues we are going to address today: money and the environment. Our home area is extremely unique and fragile. The state and federal government has spent millions of dollars to preserve this area. The Vision Iowa Board awarded \$3.8 million dollars to this project after a due diligence check of some of the background of the developers. Because of the history, they pulled the money back. They then went after Clayton County and got awarded a \$20 million tip bond. This project is currently riddled with mechanic liens and lawsuits. There is a lot of litigation. The developers himself with friends filed a \$10 million dollar slap suit against four of the neighbors and asked that they drop all of their actions and speaking out or else they will sue us. We found out last week that they dropped their suit.

These developers and contractors continued to move huge amounts of earth during the winter months on this rough topography which leads into a watershed drainage. It's a losing segment stream. It's extremely valuable. Last summer, there was a half hazard action to put in fences to help with erosion. As you can see, it hasn't worked. Last night, Clayton County Conservation board had registered over a 1 inch rainfall event. Before we left this morning, we went down to take photos of the sediment run-off. This area is highly used by trout fishermen, campers, nature purists and deer and turkey hunters.

These violations need to be firmly addressed. We need to send a strong message to developers and contractors statewide that this is serious. Sny Magill is our treasure and parkland. Please protect the environment.

-----End of Public Participation-----

Jon Tack, Attorney for the Department of Natural Resources said that Sny Magill and the valley is truly a unique area of Iowa. We have designated Sny Magill as a high level of quality water. The Department manages over 1,800 acres in the Sny Magill valley. We plan to stock the stream with fishable trout.

The referral is based upon storm water permit violations at the site of Highland Bluffs Golf and Waterplay Resort. The development included a proposed golf course, hotel, condominiums, restaurants, single-family homes and a water park. There are multiple parties involved. There are several steep slopes on this site. They had a pollution prevention plan set up including a lake/pond to catch some of the sediment run off. Construction continued through the winter months of 2005. In 2006, the lake/pond was not yet put in place other controls were but they were inadequate. We need direction in this case a plan on how to deal with future and past problems. When the work starts up again, we need to make sure that the problems are addressed. We have complaints from January 2006 to April 2006, when they stopped work. One question to ask is, who are the responsible parties in this case? River Bluff Resorts applied for the permit and are responsible for this project. They certainly should be held liable. The second party involved is P.A. McGuire, they are responsible for general oversight at this site. They oversee what each individual contractor does throughout the location. The third party is C.J. Moyna and Sons, they were the primary mover of dirt at the site. C.J. Moyna is in the business of dirt work. There is ample evidence that they know their business and they know what it takes to control sediment.

Jim Daughtry, Managing partner of River Bluff Resorts said that before we ever started this project we had an environmental study made at the site. The environmental study was done by an independent party and they said that this was a good use for the site. Secondly, the casino has had nothing to do with this property. Nothing. A very large amount of time was spent waiting for the settlement before we could move forward with Dorsey and Whitney. We did have a problem in 2005 when we had a 4 inch rainfall in 3-4 days. That was an usual situation. We have the grading done on the nine hole golf course. We have taken every effort to be good stewards. We didn't clear out a lot of trees and that was our own decision.

Denise Schneider looked at the pictures passed out by Tim Mason and said that they were taken 3 miles away from the site. There is a lot of farm ground in between here and there. Please take that into account.

Chuck Becker, representing C.J. Moyna and Sons said that the question before you is whether or not this case is enough for a referral to the Attorney General's office and if so, against who? It is incumbent on the DNR to review all of the facts in order to determine what parties are responsible. There are at least five companies involved in this site. River Bluff, MSA Engineers, who were required to create the SWPPP (Storm Water Pollution Prevention Plan), PA McGuire, C.J. Moyna (contracted to do grading and silt fencing, seeding and mulching when directed to do so) and the Demmich Brothers for grading. At this stage, you have to take into consideration the validity of the photos.

The SWPPP was ineffective and did not do the job. The responsibility to create one that works in the engineers job. There is no question about that. The site was not sized and the number of acres distributed was not apart of the site map. That is an engineering function. The estimated run-off was not calculated. Sequence of major events must be included in the SWPPP. Other responsibilities of the engineer. The SWPPP did not contain adequate description or procedures to be used to contain erosion control, that is an engineering function. It was the engineers duty was to come out and find out who was going to do what and apparently that was not done. The development process has gotten very complex since EPA has visited the site. It has changed the way things have happened.

The dirt mover is not in charge of storm water compliance. What they do could effect storm water but under the rules they are not a co-permittee. They have to take on something more. The installation of silt fencing was the sole responsibility of P.A. McGuire and River Bluff to tell C.J. Moyna when and where the fencing should go on the site. If I put it in the place where we were directed to then that's not there responsibility. I would submit that C.J. Moyna and Sons not be included in the referral.

Jeff McGuire, representing P.A. McGuire said that our erosion control is at the exit of the property. Three miles down the stream is not our responsibility to track for sediment run-off. There are several parties involved with this project. We are the construction managers for parts of the projects. There are other managers that report to the owner. We were not directed to install the silt fence or to direct where it should go. If you look at the February 10th compliant, Mike Wade shows pictures that show discharge from the property. There are two pictures that show no water leaving the site within the same compliant about a picture with sediment. It would be good to look at that before making a decision. I believe Mike Wade got the idea that we were the general contractors for the site because the form set up only had a spot for general contractors and then sub-contractors. We don't have any sub-contractors. We have not hired anyone to do any work on the project. Site work started before we come onto the site and continued on even afterwards. We were told to cease work because of the lack of funding on 11/23/05. The dates when the violations were written, we were not working on the project. No photos were taken at the actual spot of run-off and not 2 or 3 miles down stream. The direction of silt fence were not from our office but within the Pollution Prevention Plan.

Francis Thicke asked who signed the PPP? And if Jeff McGuire saw the plan at one time.

Jeff McGuire said that he did see it. I did not sign off on it originally but was told that I had to in October of 2005 but I quit working on the site in November of 2005.

Jerry Peckumn asked what relationship P.A. McGuire had with Moyna.

Jeff McGuire said that he did report Moyna's work to the owner. Our basic job was to get the power and utilities onto the site. No, we did not direct their work on site.

Jon Tack said that our continued belief is that P.A. McGuire was involved with a more general form of oversight. Mr. Wade's documents report that McGuire meet with contractors on site on April 7, 2006. Mr. McGuire was involved with the discussions on the stormwater issues.

Demmich Brothers Construction had a very limited amount of involvement. We did look at the MSA Engineer. In our investigations with MSA, that they were paid to develop a plan. They were not paid nor agreed to continue the involvement in the implementation or involvement of the plan. They were no longer paid to be continually involved.

Francis Thicke asked if the plan was inadequate or just not followed.

Jon Tack said that if the plan was not working, it can be amended or fixed.

Henry Marquard read a portion of the PPP which stated that MSA has no responsibility for implementation.

Darrell Hanson said that it seems like the engineer could be at fault for some faulty plans. I think that we need to refer all parties that could be responsible.

Jon Tack said that there are obviously other parties involved at this site, but the parties brought before you today are most responsible according to our investigations.

Darrell Hanson asked about site inspections and why they weren't being conducted in the manner and timing as directed. The repairs on the silt fencing were also not being done. Why is your client not responsible for that part of the violations?

Chuck Becker said that the contractual obligations did not include inspections at all. When it was clear that no one was doing anything, Moyna decided to protect themselves and do their own inspections.

Jim Daughtry said that MSA Engineers signed the soil permit as the project manager in 2002. This was the original soil permit in which we operated under until the problem in 2005. We were told we needed to have it re-written so we stopped to do that. There are two soil permits. The original and the amended.

Mike Wade, DNR field officer and inspector for this site said that he did not site water quality violations because of the farmland. There was no sediment retention at the site. The fences that were in place were inadequate and silt was running below.

Mary Gail Scott said that DNR has not documented the impacts to Sny Magill creek.

Motion was made by Francis Thicke to refer River Bluff Resorts, LLC., C.J. Moyna & Sons, Inc., and P.A. McGuire Construction, Inc. to the Attorney General's office to obtain injunctive relief and for the imposition of civil penalties pursuant to section 455B.191 of the Code of Iowa due to violations related to storm water regulations. Seconded by Darrell Hanson.

Darrell Hanson said that his reason for referring is because there are violations that would exceed the \$10,000 cap.

Henry Marquard said that this case clearly indicates that we need injunctive relief.

Roll call vote went as follows: Francis Thicke – aye; Mary Gail Scott – nay; David Petty – aye; Sue Morrow – aye; Henry Marquard – aye; Darrell Hanson – aye; Jerry Peckumn – aye. Motion carried.

Mary Gail Scott said that she did not vote in favor of referral because the DNR could not show that violations warrant a \$10,000 penalty.

REFERRED

REFERRAL TO THE ATTORNEY GENERAL'S OFFICE - DENNIS SHARKEY

Anne Preziosi, Attorney for the DNR presented the following information.

The DNR seeks referral of Dennis Sharkey, Sr. to the attorney general's office for appropriate enforcement action, due to open burning violations. Complaints were received in August 2006 that illegal burning was occurring at his property. The fire department investigated the site and discovered an open burn pile including remains of a piano, tires and tire rims and various other items. The sheriff's office informed DNR Field Office 1 and a Notice of Violation was sent to Dennis Sharkey for illegal open burning. At first, Dennis Sharkey blocked the fire department from entering his property.

In addition to the open burning violation in 2006, Dennis Sharkey has been committing violating open burning and open dumping violations in Iowa since 1971. Both the county and department have been working with Mr. Sharkey to stop open burning and open dumping at all three sites in Dubuque county.

Yesterday afternoon, I did receive a call from Mr. George Davis, an attorney saying that his law firm represents Mr. Sharkey. Mr. Davis also faxed a letter yesterday afternoon, requesting postponement of this referral.

The DNR does not support postponement of this referral. Mr. Sharkey was aware of the hearing today. He was personally served on March 23rd. DNR also left a phone message for him at a phone number provided by the Dubuque County Sheriff's Office as his contact number.

Mr. Davis, appearing by telephone, said that Mr. Sharkey was served eight days prior to this meeting, and Mr. Davis stated that he didn't think that this would be against anyone's interest to delay the referral for another month.

Anne Preziosi said that DNR would not be violating any of Mr. Sharkey's rights by moving forward with a referral, and that Mr. Sharkey had adequate notice.

Ken Runde, Dubuque County Sheriff, appeared in person and said that he has been dealing with Mr. Sharkey since at least 1976. He stated that Dubuque County has continued to have troubles with Mr. Sharkey's open burning. He stated that this action against Mr. Sharkey is long overdue.

Anne Preziosi said that Mr. Sharkey has been sued by the Dubuque County but that he has continued violating the law.

Motion was made by Darrell Hanson to refer Dennis Sharkey to the Attorney General's Office with the option for injunctive relief. Seconded by Sue Morrow. Motion carried unanimously.

REFERRED

TOTAL DISSOLVED SOLIDS (TDS) AND CHLORIDE UPDATE

Charles C. Corell, Chief of the Water Quality Bureau presented the following information.

The current TDS site-specific criteria became effective in Iowa's Water Quality Standards (WQS) on June 16, 2004. The Commission instructed the department to gather more information over a three year period based on six formal recommendations published in Iowa Administrative Bulletin on April 14, 2004 as ARC 3281B. The department was further instructed to use this information to propose a new standard by April 1, 2007.

While the Commission is not being presented with a formal rule proposal, the department is moving forward with data analysis and criteria development reflecting the latest toxicity information. The department is actively working with other states and EPA to ensure reasonable and approvable methods for criteria development are pursued, to determine if there have been significant technological improvements in the treatment of TDS, and explore implementation alternatives. Technical advisory committee meetings will be utilized in the very near future to discuss the best approaches for TDS and Chloride criteria.

1. Update of the TDS & Chloride Sampling Project

To fulfill the EPC directive to “Sample and monitor chlorides and TDS for adequate data to make an informed decision including the possible costs and returns associated with clean and healthy water”, the IDNR Monitoring Section conducted the TDS/Chloride wastewater study from August 23rd through October 12th, 2005 during low stream flow conditions. The goal of the project was to accurately and objectively assess the ion and TDS concentrations in the effluent of point source facilities, upstream and the downstream of the outfall.

The sampling was conducted for approximately 100 of Iowa’s point source facilities that potentially have elevated levels of TDS & Chloride and their respective receiving streams. Daily samples were taken at three to five locations depending on the wastewater treatment type and whether the point source is discharging. The locations included: a city tap water sample, a site in the stream upstream of the discharge location, a grab sample of the discharge, a 24-hour composite of the discharge, and a site downstream of the discharge. The cities were selected through a joint effort between IDNR and the IWPCA.

The results show that for the selected 100 facilities that potentially have elevated level of effluent TDS and chloride, the downstream TDS and chloride concentrations were usually below the threshold levels (TDS threshold of 1000 mg/l, chloride threshold level of 230 mg/l).

2. Potential Fiscal Impacts

The estimated facilities that have effluent chloride levels above the potential chronic criterion could be over one hundred. However, some of them may achieve enough dilution in the receiving stream to be able to meet the proposed limits. The categories of facilities that could be impacted are municipal wastewater treatment plants with hard water supplies, water treatment plants, and food processing plants.

The economic impact of TDS on point source discharges depends on the approach that the Department will take on TDS criterion. If a numerical criterion of 1000 mg/l is adopted, the number of impacted facilities could be several hundreds. These facilities could include municipal wastewater treatment plants with hard water supplies, water treatment plants, food processing plants, ethanol plants, industrial process and cooling water including power plants. However, if the current TDS site specific criteria are replaced with specific ion criteria such as chloride and sulfate, the number of impacted facilities would be almost the same as the number of facilities that are impacted by the potential chloride criteria.

The possible fiscal impacts will also be directly related to the planned implementation approach of the new criteria. Compliance with water quality-based permit limits for NPDES may potentially be achieved in multiple ways. The possibilities range from source reduction (low cost) to treatment technologies (high cost). Alternative implementation approaches to assess compliance is dependent on the criteria that is proposed, but can possibly include toxicity testing and flow-variable limits. These possibilities will be explored in greater detail later in the criteria development and fiscal analysis process.

Treatment technologies available for TDS/Cl include the following:

- Source reduction: may not be feasible in some cases
- Reverse osmosis technology: costly, need to determine how to handle the waste stream
- Thermo method: evaporation, costly
- Chemical precipitation: usually used for metals
- Integrated membrane/recycling methods: the final solids are removed by a crystallizer and the effluent used results in zero discharge.

TDS reduction should start from control – prevent TDS from entering the water system in the first place. If source reductions are not possible, technological advancements may be required to remove TDS. The most widely used TDS removal technique is reverse osmosis, including single reserve osmosis operation, and integrated membrane/recycling methods. The latter are mostly used in the pilot test phase. All other methods are relatively new, and either in research stage or only apply in specific sites and settings.

Steps to determine fiscal impacts:

- (1) Obtain the total number of facilities that could potentially have high TDS and chloride effluents;
- (2) Eliminate the percentage of facilities that could get enough dilution to meet the in-stream chloride criterion. The percentage could be calculated using the monitoring results from one hundred selected facilities during 2005 IDNR TDS/chloride study;
- (3) Obtain the total number of facilities that could cause the in-stream chloride levels above the potential chloride criterion;
- (4) Figure out the total cost based on the total number of facilities from Step (3) and TDS/chloride treatment cost per facility.

3. TDS Overview and Issues

Total Dissolved Solids (TDS) is a measure of all constituents dissolved in water including inorganic salts, organic matter and other dissolved materials in water. The principal inorganic anions dissolved in water include carbonates, chlorides, sulfates and nitrates. The principal cations are sodium, potassium, calcium and magnesium. Many of these ions are essential nutrients to aquatic organisms and may normally be present in source and receiving water. However, natural and anthropogenic sources can increase ion concentrations to levels toxic to aquatic life.

The potential high TDS sources include industrial process wastewater such as ethanol plants, water treatment plant effluent, municipal wastewater discharges, geology & soil in the watershed, and agricultural runoff.

TDS causes toxicity through increases in salinity, changes in the ionic composition of the water and toxicity of individual ions. Increases in salinity have been shown to cause shifts in biotic communities, limit biodiversity, exclude less-tolerant species and cause acute or chronic effects at specific life stages. The most recent data have shown that the individual ions that comprise TDS may have more influence on toxicity than can be estimated through gross measurements such as TDS. Research found that the presence of multiple cations tended to be less toxic than

comparable solutions with only one cation. Also, as the hardness increases, the TDS toxicity may decrease.

The TDS concentration that causes adverse effects varies substantially with the ion composition. For example, the TDS lethal concentration that causes 50% mortality for an invertebrate species (*Ceriodaphnia dubia*) during 48-hour tests ranges from 390 mg/l to over 4,000 mg/l depending on the ion composition. Studies have shown that, in general, for freshwaters the relative ion toxicity was $K^+ > HCO_3^- = Mg^{2+} > Cl^- > SO_4^{2-}$. Ca^{2+} and Na^+ did not produce significant toxicity. To freshwater organisms, Mg^{2+} , HCO_3^- , and K^+ were the most toxic, generally causing acute toxicity at less than 1,000 mg/l.

One of the difficulties in developing TDS criteria is that there are no national criteria or toxicity database available.

Since TDS toxicity depends on the ion composition, it is recommended that different limits for individual ions, rather than TDS, be used. The State of Illinois is in the process of rule making that replaces the TDS criterion of 1000 mg/l with sulfate criteria (a chloride criterion of 500 mg/l is already in the rules). The challenge is what specific ion criteria should be used to replace TDS. Among the potentially most toxic ions, K^+ , HCO_3^- , Mg^{2+} , Cl^- and SO_4^{2-} , the effluent concentrations for the first three ions are usually relatively low (based on ion analysis data submitted to IDNR by permitted facilities, the effluent K^+ , HCO_3^- , Mg^{2+} concentrations are usually less than 100 mg/l, 500 mg/l and 100 mg/l, respectively). Also, no adequate toxicity data are available to derive the criteria for these ions. The only national criterion available for ions is chloride. It is possible the TDS criteria could be replaced with chloride and sulfate ion criteria. This is the approach that State of Illinois is taking with the EPA Region 5 support.

The department is in the preliminary stages of criteria development and is actively working on developing the TDS and Chloride Issue Paper. The department plans to meet with a technical advisory committee (TAC) to determine the best approach to revising TDS and chloride criteria and developing the specific criteria. Once acceptable criteria have been developed, the department will officially begin the rule making process, beginning with an EPC informational item (possibly Fall 2007).

INFORMATION

MONTHLY REPORTS

Wayne Gieselman, Division Administrator, Environmental Protection Division, presented the following items.

The following monthly reports are enclosed with the agenda for the Commission's information.

1. Rulemaking Status Report
2. Variance Report
3. Hazardous Substance/Emergency Response Report
4. Manure Releases Report
5. Enforcement Status Report
6. Administrative Penalty Report
7. Attorney General Referrals Report
8. Contested Case Status Report
9. Waste Water By-passes Report

Attorney General Referrals Report

Aldag, Travis Ida Co. (3)	Animal Feeding Operation	Failure to Submit Plan	Order/Penalty	Referred Petition Filed Answer Filed	7/18/05 11/29/05 12/01/05
Bridges Bay Resort, LLC Spirit Lake (3)	Air Quality Solid Waste	Open Burning; Illegal Disposal	Order/Penalty	Referred	9/19/06
Bulk Petroleum Corporation 28 Sites (1) (6)	Underground Tank	Operation and Maintenance Violations	Referred to Attorney General	Referred Petition Filed	6/19/06 2/01/07
Cargill, Inc.; Mort's, Inc. Iowa Falls (2)	Solid Waste Wastewater	Illegal Disposal; Prohibited Discharge	Referred to Attorney General	Referred	11/14/06
Clinton, City of (6)	Wastewater	Compliance Schedule; Discharge Limits	Referred to Attorney General	Referred	9/19/05
Cohrs, Bernard; Construction Dickinson Co. (3)	Air Quality Solid Waste	Open Burning; Illegal Disposal	Referred to Attorney General	Referred	11/14/06
Des Moines, City of; Metropolitan WW Reclamation Authority (5)	Wastewater	Compliance Schedule	Referred to Attorney General	Referred	8/15/06
De Vos, Harold and Sharon Rock Rapids (3)	Air Quality Solid Waste Wastewater	Open Burning; Illegal Disposal; Operation Without Permit	Order	Referred Petition Filed	9/19/06 1/23/07
Environmental Recycling Co., Inc. Dwight Oglesbee	Air Quality Solid Waste	Open Burning; Illegal Disposal	Referred to Attorney General	Referred	12/05/06

Masena (4)						
Garrett Corporation; Industries Waterloo (2)	Delta	Air Quality	Construction Without Permit; Construction Contrary to Permit	Referred to Attorney General	Referred	1/02/07
General Motor Corporation Sioux City (3)		Hazardous Condition	Remedial Action	Order	Referred	9/19/06
Heisdorffer, Leland Keokuk Co. (6)		Air Quality Solid Waste	DNR Defendant	Defense	Petition Filed (No original notice served) IDNR's Motion to Dismiss/Strike Hearing Date Ruling on Motion (Dismissed all damage claims against the State) Trial Date	10/06/05 8/07/06 9/01/06 9/11/06 5/11/07
Kruse Dairy Farm, Inc. Dyersville (1)		Animal Feeding Operation	Failure to Submit Plan	Order/Penalty	Referred	12/19/05
Landfill of Des Moines #4 Des Moines (5)		Solid Waste	Operation Permit Violations – Other	Referred to Attorney General	Referred Petition Filed	4/17/06 1/23/07
Leigh, Marsha Glenwood (4)		Air Quality Solid Waste	Open Burning; Illegal Disposal	Order/Penalty	Referred Petition Filed Defendant's Motion to Dismiss State's Resistance/Motion to Dismiss Motion to Intervene Hearing on Motion to Dismiss Ruling Denying Motion to Dismiss Resistance to Motion to Intervene Hearing on Motion to Intervene Ruling Denying Motion to	9/20/04 3/29/05 4/20/05 5/02/05 5/12/05 5/23/05 5/23/05 5/23/05 6/27/05 6/29/05 12/05/05 9/12/05 12/7/05

				Intervene Hearing on Defense Motions Motion for Judgment on Default Order Granting Default Judgment		(\$100,000/Civil; \$10,000/Admin. & Injunction)	
Midwest Investors of Renville dba Golden Oval Eggs Cooperative Thompson (2)	Wastewater	Prohibited Discharge	Referred to Attorney General	Referred	12/05/06		
Miller, Albert Kalona (6)	Air Quality Solid Waste	Open Burning; Illegal Disposal	Referred to Attorney General	Referred Petition Filed	9/19/06 1/23/07		
Miller Products Company Osceola (5)	Wastewater	Prohibited Discharge	Referred to Attorney General	Referred	12/05/06		
Miller, Robert Batavia (6)	Air Quality Solid Waste	Open Burning; Illegal Disposal	Referred to Attorney General	Referred Petition Filed	8/15/06 1/23/07		
Mobile World LC Camanche (6)	Air Quality Solid Waste	Open Burning; Illegal Disposal	Order/Penalty	Referred Petition Filed Bankruptcy Petition Filed Plan for Reorganization Appearance by State in Bankruptcy Notice of Intent to Seek Default Appearance by Defendant Trial Date	8/16/04 4/08/05 4/13/05 4/13/05 6/17/05 3/03/06 3/08/06 11/19/06		
Moellers, Kenneth Cresco (1)	Animal Feeding Operation	Prohibited Discharge – Open Feedlot; Failure to Report a Release; WQ Violations – General Criteria	Referred to AG	Referred Petition Filed	2/20/06 12/11/06		
Organic Technologies; Tim Danley; Ken Renfrow; Mike Danley Warren Co. (5)	Solid Waste	Permit Violations	Referred to Attorney General	Referred Petition Filed Application for Temporary Injunction Temporary	12/15/97 10/02/98 2/04/99 4/19/99 9/13/00 9/28/00		

Injunction 12/12/02
 Trial Date 2/20/03
 Partial 2/20/03
 Judgment
 (Clean-up
 Order) 7/09/03
 Contempt 8/01/03
 Application
 Contempt 8/01/03
 Hearing Date 8/20/03
 Contempt 9/18/03
 Finding and 4/16/04
 Civil Penalty 12/10/04
 (\$100,000
 and 30 Days in 1/05/05
 Jail –
 Suspended 8/15/06
 until 7/8/03)
 Hearing
 Regarding
 Contempt
 Order
 Regarding
 Bond/Cleanup
 Deadline
 Bond Posted
 State
 Objections to
 Bond
 Ruling
 Denying
 Objections to
 Bond
 Status Hearing
 Date
 Hearing on
 Motion to
 Extend
 Cleanup
 Deadline
 Order
 Reinstating
 \$100,000 Civil
 Penalty
 Site Clean-up
 Completed

Pedersen, Dean Laurens (3)	Animal Feeding Operation	Failure to Update Plan	Referred Attorney General	to	Referred Petition Filed	4/17/06 12/11/06
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Pellett Chemical Co., Inc. Wiota (4)	Underground Tank	Failure to Submit Tier 2 Site Assessment	Referred Attorney General	to	Referred	6/19/06
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Plymouth Dairy Farms Plymouth Co. (3)	Animal Feeding Operation	Prohibited Discharge – Confinement; Record Keeping; Application in Excess of Crop Usage Rate; Freeboard	Referred Attorney General	to	Referred Petition Filed	9/19/05 1/10/06
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Roquette America	Air Quality	DNR Defendant	Defense		Petition Filed	8/28/03
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Keokuk (6)

DNR's Answer 9/11/03
 DNR's
 Resistance to 9/11/03
 Temporary 9/11/03
 Injunction 9/29/03
 Hearing on 9/30/03
 Temporary 1/14/04
 Injunction 1/06/05
 DNR's Brief in 10/24/05
 Resistance 6/29/05
 Roquette's 6/29/05
 Brief 4/24/06
 Ruling on 4/24-28/06
 Temporary 5/25/06
 Injunction
 Trial 6/020/06
 Scheduling 6/19/06
 Conference 6/21/06
 Trial Date 7/05/06
 Motion for
 Continuance
 Order Granting
 Continuance
 Trial Date
 Trial
 Roquette's
 Request to
 Reopen
 Evidence
 IDNR
 Resistance to
 Reopening
 Evidence
 Roquette's
 Reply to
 Resistance
 IDNR
 Motion/Supp.
 Resistance
 Order Denying
 Roquette's
 Request
 to Reopen
 Evidence

Roquette America, Inc. Keokuk (6)	Air Quality	Construction Permit	Without	Referred Attorney General	to Referred	9/19/06
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Rose Bowl, The Mason City (2)	Drinking Water	Monitoring/Reporting – Bacteria, Nitrate; Public Notice		Referred Attorney General	to Referred Petition Filed	7/17/06 1/22/07
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Schoenberr, R. B. d/b/a Long Branch Tavern Monmouth (1)	Drinking Water	Permit Renewal		Orders/Penal ties	Referred Court Order Re-Referred Petition Filed Application for Contempt Contempt Hearing Order for Contempt	6/20/97 12/09/98 11/21/02 3/11/05 3/11/05 4/01/05 8/05/05 4/01/05 5/03/05
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					(\$3,000 fine)	5/03/05
					Arrest Warrant	7/06/05
					Issued	8/05/05
					Contempt/Tem	8/05/05
					porary	
					Injunction	1/31/06
					Hearing	
					Temporary	
					Injunction	
					Granted	
					Contempt	
					Hearing Date	
					Contempt	
					Hearing	
					Order Finding	
					Defendant in	
					Contempt	
					\$3,000 Fine	
					Amended	
					Petition	
<hr/>						
Simpson, Barry	Animal	DNR Defendant	Defense	Petition Filed	10/18/04	
Worth Co.	Feeding			Answer Filed	11/04/04	
	Operation					
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SNF, Inc. dba Brand FX Body	Air Quality	Operational Violations	Referred to	Referred	9/19/06	
Company			Attorney			
Pocahontas (3)			General			
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Stone v. Rembrand Enterprises, Inc.	Animal	DNR Defendant	Defense	Petition Filed	12/06/04	
	Feeding			State Motion	1/10/05	
UPDATED	Operation			to Dismiss	3/07/05	
				Hearing	5/17/05	
				Ruling	2/27/06	
				Dismissing	3/20/06	
				Damage	5/01/06	
				Claims	6/19/06	
				State's Motion		
				for Summary		
				Judgment	10/04/06	
				Order Granting		
				Continuance	11/03/06	
				Hearing on	11/03/06	
				Summary		
				Judgment	1/08/07	
				State's Supp.	1/22/07	
				Reply to	3/05/07	
				Plaintiff's		
				Resistance to		
				Motion for		
				Summary		
				Judgment		
				Ruling		
				Denying		
				Motion for		
				Summary		
				Judgment		
				Application for		
				Interlocutory		
				Appeal		
				Memorandum		
				in Support of		
				Interlocutory		

Appeal
Application
Denied
Motion for
Separate Trial
Hearing on
Motion for
Separate Trial

Sweitzer, Chad and Lona; Winter Mobile Home Park New Hampton (1)	Drinking Water	Operation Permit; Monitoring/Reporting – Bacteria; MCL – Bacteria	Without	Referred to Attorney General	Referred	11/14/06
Williams, Dean Stuart UPDATED	(2) Underground Tank	Remedial Action		Referred to Attorney General	Referred Petition Filed Answer Filed Motion for Partial Summary Judgment Consent Decree (\$20,000 civil Penalty; contaminated soil removed; ordered corrective action and monitoring with estimated cost of \$97,000; permanent injunction)	10/17/05 12/08/05 12/23/05 6/05/06 2/20/07

**Iowa Department of Natural Resources
Environmental Services
Report of WW By-passes**

During the period February 1, 2007 through February 28, 2007, 34 reports of wastewater by-passes were received. A general summary and count by field office is presented below. This does not include by-passes resulting from precipitation events.

Month	Total	Avg. Length (days)	Avg. Volume (MGD)	Sampling Required	Fish Kill
October '06	3(11)	0.427	0.055	1	0(0)
November '06	3(7)	0.063	0.033	2	0(0)

December '06	11(7)	0.862	0.016	1	0(0)
January '07	7(10)	0.213	0.004	1	0(0)
February '07	34(6)	0.386	0.070	6	0(0)
March '06	12(9)	0.155	0.026	1	0(0)
April '06	12(14)	0.073	0.134	2	0(0)
May '06	11(18)	0.135	0.004	3	0(0)
June '06	9(7)	0.342	0.076	5	0(0)
July '06	9(5)	0.078	0.003	2	0(0)
August '06	15(13)	0.196	0.023	8	0(0)
September '06	9(3)	0.285	0.024	0	0(0)

(numbers in parentheses for same period last year)

Total Number of Incidents Per Field Office This Period:

1	2	3	4	5	6
9	3	3	2	2	15

Contested Cases

4/26/99	Gerald and Judith Vens	6	Order/Penalty	FP	Clark	9/20/04 – DNR staff gathering information to submit to DNR management.
12/01/99 12/08/99	Iowa Select Farms, L.P./AG Waste Consultants, Inc.	2	Order/Penalty	AFO	Clark	4/20/04 – ISF and Dept. attorneys unsuccessful attempt to contact AG Wastes Consultants attorney.
7/13/00	Dan Witt	6	Order/Penalty	AFO	Clark	1/10/07 – FO6 staff visited the site to determine the current status and observed that the AFO portion of the farm operations has been closed.
10/02/01	Daryl Larson	6	Order	AFO	Clark	Negotiating before filing.
11/27/01	Dallas County Care Facility	5	Order/Penalty	WW	Hansen	10/03 – Letter to County attorney regarding appeal resolution. 1/04 – Letter to attorney regarding appeal. 4/04 – Dept. letter to attorney regarding appeal. 9/04 – Dept. letter to attorney regarding appeal.
1/23/02	Clearview Mobile Home Park	6	Permit Conditions	WW	Hansen	10/31/02 – Construction permit issued for improvement to lagoon system. 10/31/03 – Update on construction project requested from Dept. engineer. 1/30/04 – Status report requested from Dept. staff. 2/24/04 – Letter sent to attorney regarding resolving appeal. 3/15/04 – Letter from facility attorney regarding proposed upgrade with sand filters. 4/26/04 – Dept. letter to MHP attorney requesting construction schedule for project. 5/17/04 – Letter from

						MHP attorney with new schedule. 10/18/06 – Letter to attorney regarding schedule for resolving appeal. 10/06 – Letter to MHP attorney regarding resolution of appeal. 11/06 – Letter from MHP attorney regarding projects on hold due to revisions in WQ standards rules.
7/18/02	Mt. Pleasant, City of	6	Order/Penalty	WW	Hansen	\$500 penalty payment received for uncontested portion. 12/03 – Dept. letter with settlement offer. 1/30/04 – Dept. letter sent regarding settlement. 2/24/04 & 3/31/04 – Follow-up letters sent regarding settlement. 4/26/04 – Letter received from City attorney regarding Dept. settlement proposal.
7/23/02	Doug Wedemeyer	4	Order/Penalty	AFO	Clark*	4/30/04 – DNR letter sent.
8/25/02	Kenneth Dahlhauser	2	Order/Penalty	AFO	Clark	1/4/07 - An offer to settle was sent to Mr. Dahlhauser's attorney. This letter gave Mr. Dahlhauser until 1/26/07 to contact Carrie Schoenebaum with regard to the settlement. Attorney called and asked for extended time to review. She will call back.
11/27/02	Chelsea, City of	5	Order/Penalty	WW	Hansen*	9/18/03 – DNR letter. Will monitor for compliance through winter of 2004.
2/10/03	Doug Osweiler	6	Order/Penalty	AFO	Clark	Negotiating before filing.
2/24/03	Ray Slach	6	Order/Penalty	AFO	Clark	4/29/04 – Settlement invitation letter sent.
3/04/03	Iowa Select Farms; Swartz Finisher Farm	2	Order/Penalty	AFO	Clark	5/28/04 – Dept. makes counter offer in response to appellant's settlement offer. 6/15/04 – Second round of offers.
4/04/03	Natural Pork Production II, LLP (03-AFO-13)	6	Order/Penalty	AFO	Clark*	3/10/07 – Attorney for NPPII responds to DNR's inquiry, indicating that he will get with client and then back with DNR in next week.
4/25/03	Ag Processing Inc.	2	Permit Conditions	AQ	Preziosi	Continuing to negotiate.
6/23/03	D & D Ag Enterprises LLC	4	Order/Penalty	AFO	Clark	Penalty paid 2/2/07. Case closed.
8/12/03	Southern Waste Handling, Inc.	5	Order/Penalty	AFO	Clark	2/22/07 – Consent Amendment to Order sent to the appellant for signature.
8/29/03	Country Living Mobile Home Park	5	Order/Penalty	WW	Hansen	6/23/04 – Construction permit issued. Settlement offer will be made. 9/04 – Status report from Dept. engineer requested regarding project construction status. 10/05 – Status report requested from Dept. engineer. 11/05 – Facility upgrade completed. New NPDES permit requested for upgraded facility. 12/16/05 – Settlement offer received from MHP attorney.
9/05/03	Strawberry Point, City of	1	Order/Penalty	WW	Hansen*	1/5/04 – City to upgrade facilities, compliance will be monitored through 2005.

10/08/03	TEGH, Inc. (03-UT-15)	6	Order/Penalty	UT	Wornson	TEGH, Inc. no longer operator; questionable as a viable corporation. Review options.
10/27/03	B & Food & Gas, Inc. (03-UT-12)	6	Order/Penalty	UT	Wornson	B & H no longer operator; questionable as a viable corporation. Review options.
10/27/03	U.S. Nation Mart, Inc. (03-UT-14)	6	Order/Penalty	UT	Wornson	Proposed consent order drafted.
12/02/03	Jeff Holland	2	Order/Penalty	AFO	Clark	Negotiating before filing.
12/15/03	AGP (Emmetsburg)	3	Permit Conditions	AQ	Preziosi	Continuing to negotiate.
12/29/03	T. Patrick Cashman; Laurie Cashman	5	Order/Penalty	AFO	Clark	Consent amendment to Order signed.
1/21/04	Bob Kerrigan	4	Order/Penalty	AFO	Clark	Negotiating before filing.
1/30/04	John Schmall d/b/a Carpenter Bar & Grill	2	Order/Penalty	WS	Hansen	2/26/04 – Letter to WS attorney regarding resolving appeal. 9/04 – Per WS section, facility has returned to compliance. 11/06 – Facility building burned down, facility closed.
2/09/04	Swine USA, LP	5	Order/Penalty	AFO	Clark	2/2/07 – Draft Consent Order sent to attorney for new owner.
2/16/04	Iowa Ethanol, LLC; Reilly Construction Co., Inc.	2	Order/Penalty	WW	Clark*	Meeting held 4/07/04.
2/17/04	Broin & Assoc., Inc. aka Otter Creek Ethanol, LLC	3	Order/Penalty	WW	Clark*	Meeting held 4/07/04.
2/17/04	Broin & Assoc., Inc. aka Iowa Ethanol, LLC	2	Order/Penalty	WS/WW	Clark*	Meeting held 4/07/04.
2/18/04	Gettler Dairy, Inc.; Dave and Kristen Gettler	4	Order/Penalty	AFO	Clark	Negotiating before filing.
3/15/04	Iowa Falls, City of	2	Order/Penalty	WW	Hansen	6/04 – Dept. letter to City attorney regarding settlement. 8/06 – Letter from City attorney regarding resolving appeal. 10/06 – Letter to City attorney regarding settlement and setting case for hearing. 11/06 – Response received from City attorney concerning SEP proposal. 1/07 – Settlement proposal (SEP) received from City attorney; under review by Dept. staff.
4/02/04	LeMars, City of	3	Order/Penalty	WW	Hansen	4/02/04 – Meeting held to discuss settlement. 1/05 – Tentative agreement reached on settlement.
4/08/04	Silver Creek Feeders	4	Permit Conditions	AFO	Clark	Negotiating before filing.
4/16/04	Ag Processing Inc. (Sheldon)	3	Permit Conditions	AQ	Preziosi	Continuing to negotiate.
5/12/04	Ag Processing, Inc.	3	Permit Conditions	AQ	Preziosi	Continuing to negotiate.
5/18/04	Alton, City of	3	Order/Penalty	FP	Clark	Negotiating before filing.
5/25/04	CDI, LLC	6	Permit Conditions	AQ	Preziosi	Hearing continued to 1/07. Waiting for ALJ decision on motion for summary judgment.
5/27/04	CDI – Charles City	2	Permit Conditions	AQ	Preziosi	Hearing continued to 1/07. Waiting for ALJ decision on motion for summary judgment.
6/11/04	University of Iowa	6	NPDES Permit	WW	Hansen	Negotiating before filing.
6/18/04	CDI – Charles City	2	Title V Permit Determination	AQ	Preziosi	Hearing continued to 1/07. Waiting for ALJ decision on motion for summary judgment.
6/18/04	Phillip Renze	3	Order/Penalty	AFO	Clark	2/26/07 – Dept. phoned Renze's attorney, but not available until end of extended tax filing deadline for farmers (3/15).
6/24/04	Jansma Cattle Co., Inc.	3	Order/Penalty	AFO	Tack*	Primary RP died. Current

						operation received construction permit on 11/06/06. Will be settled when construction is completed.
6/28/04	Michael Veenstra; Alan Veenstra	5	Order/Penalty	AFO	Clark	Negotiating before filing.
10/12/04	Gary Hart	6	Order/Penalty	AQ/SW	Tack	Hearing set for 1/19/07. Hearing continued to May 25, 2007.
10/13/04	Charlie Van Meter; Van Meter Feedyard	5	Permit Conditions	WW	Clark	1/12/07 - The reasons that the permit appeal was filed are now moot. A formal dismissal of the appeal has been sent to Mr. Van Meter for his signature.
10/19/04	Cedar Rapids, City of	1	Order/Penalty	WW	Hansen*	To be set for hearing.
10/21/04	Eugene Kramer	1	Permit Denial	WR	Clark	3/6/07 – Dept. discusses case with attorney for deceased Mr. Kramer. Potential lawsuit against Kramer can still be filed until 4/6/07, so unwilling to withdraw contested case until that is known.
11/02/04	Mike Elsbernd	1	Order/Penalty	AFO	Book	Order and penalty affirmed. Inability to pay claim being evaluated by Department.
11/10/04	Ted T. Smith	3	Order/Penalty	AFO	Clark	Negotiating before filing.
1/05/05	S.J. Louis Construction	5	Order/Penalty	WW	Hansen	To be set for hearing. 5/31/06 – Letter regarding appeal sent to company. Follow-up letter to be sent. 10/06 – Letter to company regarding scheduling appeal for hearing. Hearing set for 4/06/07.
1/20/05	Pleasant Hill, City of	5	Order/Penalty	WW	Hansen	4/08/05 – Meeting with City regarding appeal and settlement. City made settlement offer regarding penalty. Offer rejected by DNR. City to provide further response by 5/05. No response received. To be set for hearing. 5/31/06 – Letter to City Attorney regarding appeal. Letter received from City Attorney regarding appeal. 10/06 – Dept. letter to City attorney regarding appeal and scheduling of hearing. 1/07 – Sent to DIA. Hearing set for 4/05/07.
1/20/05	Monty Branstad	2	Order/Penalty	AQ/SW	Preziosi	ALJ issued proposed decision 11/13/06.
1/24/05	Lawler, City of	4	Order/Penalty	WW	Hansen	10/06 – Letter to City about resolving appeal. 12/06 – City council approved SEP proposal to be sent to Dept. 1/07 – SEP proposal received from City. Resolved with SEP project. 2/06 – Dept. letter to City accepting SEP proposal. Consent order enclosed for City to sign.
2/04/05	Honey Creek Campground	4	Order/Penalty	WW	Hansen	12/07/05 – Telephone call with Honey Creek attorney regarding hearing and compliance issues. 3/22/06 – Meeting at FO 4 with

						wastewater owner and attorney. 4/5/06 – FO4 inspection of campground. 5/12/06 – FO letter to facility regarding inspection. 5/22/06 – Letter received from Honey Creek attorney requesting waiver of penalty in view of inspection. Letter to Honey Creek attorney rejecting request to waive penalty.
2/17/05	CDI, LLC	2	Permit Conditions	AQ	Preziosi	Hearing continued to 1/07 Waiting for ALJ decision on motion for summary judgment.
2/24/05	Mt. Joy Mobile Home Park	1	Order/Penalty	WW	Hansen	10/06 – Letter to MHP regarding settlement of appeal. 11/06 – Information received from MHP owner regarding MORs and certified operator.
3/08/05	Randy Griffin	5	Order/Penalty	AQ/SW	Tack	Settled. Revised consent order sent 1/22/07.
3/25/05	Hoover Land Corp.	2	Order/Penalty	WS	Hansen	Negotiating before filing.
4/04/05	Ruby Field; Ed Grafke	6	Order/Penalty	UT	Wornson	No progress, set for hearing.
4/05/05	Dirk D. Graves	4	Order/Penalty	AQ	Tack	To be set for hearing.
5/25/05	Iowa Quality Beef Cooperative	5	Order/Penalty	WW	Hansen	6/26/06 – FO meeting with company officials to discuss reopening of plant. 7/12/06 – FO inspection of plant. 10/06 – To be set for hearing.
8/05/05	Scott Lenz	4	Order/Penalty	AFO	Book	Waiting to hear from producer.
11/21/05	CDI, LLC	2	Construction Permit	AQ	Preziosi	Hearing continued to 1/07 Waiting for ALJ decision on motion for summary judgment.
2/27/06	Greig & Co., Inc.	3	NPDES Permit	WW	Clark	Negotiating before filing.
3/28/06	Jordan Branstad; Edward Branstad	2	Order/Penalty	AQ/SW	Preziosi	ALJ issued proposed decision 11-13-06. Branstad appealed decision.
4/10/06	Praxair, Inc.		Permit Conditions	AQ	Preziosi	Negotiating.
7/07/06	Washington County (Permittee: Riverside Casino)	6	Water Use Permit	WR	Clark	Negotiating before filing.
8/09/06	Cargill (Eddyville)	5	Permit Conditions	AQ	Preziosi	Waiting to hear from Cargill engineer. Meeting will be set with technical staff.
8/28/06	Winnebago Industries, Inc.	2	Title V Permit	AQ	Preziosi	Hearing continued to 1/07. Waiting for ALJ decision on motion for summary judgment.
10/06/06	Ted Dickey dba Dickey Farms	6	Order/Penalty	AQ/SW/AFO	Book	Negotiating before filing. Will set up a meeting after the first of the year.
10/26/06	XEthanol Biofuels, LLC	1	Permit Conditions	AQ	Preziosi	Negotiating before filing.
12/27/06	Piper Motor Co. Inc.	6	Order/Penalty	AQ/WW	Tack	Discovery sent 3/01/07.
1/08/07	Cargill (Eddyville) 02-A-393-S3, 02-A-394-S2, 02-A-395-S2, 02-396-S3, 05-A-930, 05-A-931	5	Permit Conditions	AQ	Preziosi	New case.
1/11/07	Clow Valve Company (20 Permits)	5	Permit Conditions	AQ	Preziosi	New case.

DATE: April 1, 2007

TO: EPC

FROM: Ed Tormey

RE: Enforcement Report Update

The following new enforcement actions were taken last month:

Name, Location and Field Office Number	Program	Alleged Violation	Action	Date
Iowa Select Farms, LP Hardin Co. (2)	Animal Feeding Operation	Record Keeping	Consent Amendment \$250	2/16/07
Injectsom, LLC Grundy Center (2)	Animal Feeding Operation	Uncertified Applicator	Consent Order \$4,000	2/19/07
St. Ansgar, City of (2)	Wastewater	Operational Violations	Consent Amendment \$1,000	3/01/07
T. Patrick and Laurie Cashman, Poweshiek Co. (5)	Animal Feeding Operation	Failure to Submit Plan	Consent Amendment \$375	3/07/07
Harvey Products, Inc. Harvey (5)	Air Quality	Construction Permit	Without Consent Amendment \$5,000	3/08/07
Griebel Enterprises, Inc. - Dale 20 O'Brien Co. (3)	Animal Feeding Operation	Failure to Submit Plan	Consent Order \$3,000	3/08/07
Griebel Enterprises, Inc. – Baker 36 O'Brien Co. (3)	Animal Feeding Operation	Failure to Submit Plan	Consent Order \$3,000	3/08/07
Mike Coady d/b/a Silver Lake Finishing, Kossuth Co. (2)	Animal Feeding Operation	Uncertified Applicator	Consent Order \$4,000	3/08/07

Rulemaking Status Report

Proposal	Notice to Commish	Notice publishe d	ARC#	Rules Review	Hearing	Coment period	Final summary to commish	Rules adopted	Rules published	ARC#	Rules review commite	Effective

1. Ch. 21, 22, 23, 25 and 34 – Incorporate Federal Regulations	11/14/06	12/06/06	5599B	1/03/07	1/08/07	1/09/07	2/06/07	2/06/07	2/28/07	5755B	*3/05/07	*4/04/07
2. Ch. 40, 43 – Minor Water Main Construction Permit	3/06/07	*3/28/07		*4/03/07	*4/19/07	*4/20/07	*5/07/07	*5/07/07	*6/06/07		*7/05/07	*7/11/07
3. Ch. 61 – WQS Section 401 Certification of Section 404 NWP	11/14/06	12/06/06	5598B	1/03/07	12/26/06	12/26/06	4/03/07	*4/03/07	*4/25/07		*5/07/07	*5/30/07
4. Ch. 64 – Sewer Extension Construction Permit Provisions	12/05/06	1/03/06	5638B	2/06/07	1/24/07	1/26/06	3/06/07	3/06/07	*3/28/07		*5/07/07	*5/30/07
5. Ch. 64 – Wastewater Construction and Operation Permits	2/06/07	2/28/06	5753B	*4/03/07	*3/30/07	*3/30/07	*5/07/07	*5/07/07	*6/06/07		*7/05/07	*7/11/07
6. Ch. 67 – Updates and Revisions	12/05/06	1/03/06	5636B	2/06/07	1/24/07	1/26/07	3/06/07	3/06/07	*3/28/07		*4/03/07	*4/04/07
7. Ch. 81 – Op. Cert. – Public Water Supply Systems and WW Treatment Systems	12/05/06	1/03/06	5630B	2/06/07	1/24/07	1/26/07	3/06/07	3/06/07	*3/28/06		*4/03/07	*4/04/07
8. Ch. 103-106, 112, 114, 115, 118, 120-123 – Financial Assurance Regulations	12/05/06	1/03/06	5633B	2/06/07	*3/28/07	*3/28/07	*5/07/07	*5/07/07	*6/06/07		*7/05/07	*7/11/07
9. Ch. 113 – Sanitary Landfills for Municipal SW: Groundwater Protection Systems for the Disposal of Non-Hazardous Wastes	11/14/06	12/06/06	5597B	1/03/07	1/22,24 and 26/07	1/26/07	*5/07/07	*5/07/07	*6/06/07		*7/05/07	*7/11/07

Iowa Department of Natural Resources
Environmental Services Division
Reports of Manure Releases

During the period February 1, 2007, through February 28, 2007, 4 reports of manure releases were forwarded to the central office. A general summary and count by field office is presented below.

Month	Total Incidents	Feedlot ment	Confine Application	Land	Transport	Hog	Cattle	Fowl	Other	Surface Water Impacts
October	12 (13)	0 (1)	9 (2)	0 (1)	3 (9)	9 (12)	0 (1)	3 (0)	0 (0)	1 (1)
November	10 (8)	0 (0)	2 (1)	3 (3)	5 (4)	8 (6)	1 (2)	1 (0)	0 (0)	1 (1)

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December	5 (2)	0 (0)	5 (1)	0 (0)	0 (1)	4 (0)	1 (2)	0 (0)	0 (0)	1 (0)
January	4 (3)	0 (0)	3 (2)	0 (1)	0 (0)	3 (1)	0 (2)	0 (0)	0 (0)	0 (0)
February	4 (2)	0 (0)	1 (1)	0 (0)	2 (1)	2 (1)	1 (1)	0 (0)	0 (0)	1 (0)
March	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
April	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
May	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
June	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
July	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
August	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
September	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
Total	35 (28)	0 (1)	20 (7)	3 (5)	10 (15)	26 (20)	3 (8)	4 (0)	0 (0)	4 (2)

(numbers in parentheses for the same period last year)

Total Number of Incidents Per Field Office this Period:

1	2	3	4	5	6
1	2	0	1	0	0

IOWA DEPARTMENT OF NATURAL RESOURCES
COMPLIANCE AND ENFORCEMENT BUREAU

DATE: April 1, 2007

TO: Environmental Protection Commission

FROM: Ed Tormey

SUBJECT: Summary of Administrative Penalties

The following administrative penalties are due:

NAME/LOCATION	PROGRAM	AMOUNT	DUE DATE
Robert and Sally Shelley (Guthrie Center)	SW	1,000	3-04-91
Verna and Don Reed; Andrea Silsby (Union Co.)	SW	1,000	4-07-94

Elery Fry; Allen Fry; Becky Sandeen (Monroe Co.)	SW	6,000	1-20-96
Daryl & Karen Hollingsworth d/b/a Medora Store(Indianola)	UT	8,542	3-15-96
Robert Jeff White (Dallas Co.)	AQ/SW	10,000	7-14-97
Greg Morton; Brenda Hornyak (Decatur Co.)	SW/AQ/WW	3,000	11-04-98
Ray Stamper; Bryan Zenor (Polk Co.)	SW	2,000	12-12-98
Otter Creek Station (Dubuque Co.)	WS	325	3-04-99
Lindahl & Sons Salvage (Boone)	AQ/SW	10,000	11-29-00
R & R Ranch (Osceola)	WW	10,000	8-30-00
Alice Hillhouse; Hillhouse Real Estate Corp. (Denison)	UT	3,000	2-28-01
Teckenburg, Inc.; Jerry Teckenburg (Cedar Rapids)	UT	6,380	7-06-01
Keith Craig; The Farm (Council Bluffs)	UT	3,890	8-08-01
James Harter (Fairfield)	WW	1,780	8-01-01
Wisconsin North dba National Petroleum, Inc. (Clinton)	UT	5,000	8-04-01
# Troy DeGroote; Casey DeGroote (Butler Co.)	AFO/AQ/SW	242	3-08-02
Charlotte Caves (Oskaloosa)	HC	10,000	4-03-02
# Practical Pig Corporation (Clinton Co.)	AFO	2,000	5-26-02
Mobile World, L.C. (Camanche)	WW	2,000	5-27-02
M-F Real Estate; Fred "Butch" Levell (Carter Lake)	HC	1,701	8-18-02
Midway Oil Co.; David Requet (Davenport)	UT	5,355	9-20-02
Dale Schaffer (Union Co.)	AQ/SW	10,000	11-05-02
	UT	32,690	2-28-03
U.S. PETRO, INC.; SSJG PETROLEUM; SUKHDEV SINGH			
	UT	44,900	2-28-03
MIDWAY OIL CO.; DAVID REQUET; JOHN BLISS			
Midway Oil Company (West Branch)	UT	7,300	5-03-03
Midway Oil Company (Davenport)	UT	5,790	5-03-03
Efren Valdez (Warren Co.)	SW	2,782	6-09-03
Mobile World LC (Clinton Co.)	SW	2,250	6-29-03
Albert Miller (Kalona)	AQ/SW	10,000	9-26-03
* Jerry Feilen and Rick Bain (Pottawattamie Co.)	AQ/SW	1,663	12-15-03
Robert L. Nelson (Orient)	UT	637	12-26-03
Mark Anderson (Des Moines Co.)	AQ/SW	6,188	3-22-04
Mike Phillips aka Jeff Phillips (Cambridge)	AQ	5,000	3-27-04
Mike Messerschmidt (Martinsburg)	AQ/SW	500	4-13-04
Interchange Service Co., Inc., et.al. (Onawa)	WW	6,000	5-07-04
R. Victor Hanks; Mobile World L.C. (Camanche)	WW	10,000	5-23-04
Emer Carlson (Fairfield)	AQ	6,500	6-01-04
#*Floyd Kroeze (Butler Co.)	AFO	1,500	6-01-04
Iowa Falls Evangelical Free Church (Iowa Falls)	WS	750	6-13-04
Mitchell Town Pump (Mitchell)	WS	2,080	6-16-04
# Dunphy Poultry (Union Co.)	AFO	1,500	6-27-04
Shane Preder (Ft. Madison)	AQ	477	7-12-04
James L. Heal d/b/a A-1 Domestic (Homestead)	SW/WW	1,800	7-16-04
Ranch Supper Club (Swisher)	WS	300	8-02-04
# Phillip Renze; Doug Renze (Sac Co.)	AFO	2,000	8-03-04
#*James Boller (Kalona)	AFO	3,634	8-19-04
# Cash Brewer (Cherokee Co.)	AFO/SW	10,000	8-25-04
Spillway Supper Club (Harpers Ferry)	WS	1,500	9-06-04
David Niklasen (Shelby Co.)	SW	100	9-11-04
# Doorenbos Poultry; Scott Doorenbos (Sioux Co.)	AFO	1,500	10-09-04
T & T Corner Bar (McIntire)	WS	3,000	10-26-04
Rock N Row Adventures (Eldora)	WS	3,000	10-23-04
# Jason Fox (Audubon Co.)	AFO	1,000	11-27-04
# Norm Cleveringa (Lyon Co.)	AFO	750	11-27-04
Americana Bowl (Ft. Madison)	WS	100	11-28-04
Howard Traver, Jr. (Cass Co.)	SW	3,000	12-14-04
Valley Country Café; NOO Investment Co. (Cass Co.)	WS	5,000	2-18-05

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Denzel Edwards (Cass Co.)	AQ/SW/HC	500	3-01-05
* Fran Oil Company (Council Bluffs)(3 Admin. Orders)	UT	4,300	4-09-05
# Mike Rausch; Justin Rausch (O'Brien Co.)	AFO	2,000	4-02-05
Virgil Ehlers; Ehlers Oil Co. (Soldier)	UT	8,040	4-23-05
* Reginald Parcel (Henry Co.)	AQ/SW	260	4-23-05
Harold Linnaberry (Clinton Co.)	SW	1,000	5-18-05
#Dennis VanDerWeide (Sioux Co.)	AFO	500	6-01-05
* Country Stores of Carroll, Ltd. (Carroll)	UT	1,408	6-06-05
Mehmert Tiling, Inc. (Cresco)	UT	8,849	6-10-05
Elery Fry; Allen Fry; Mel Fry; Ron Fry (Moravia)	SW	10,000	6-20-05
Fedler and Company; Tony Fedler (Mt. Pleasant)	HC	3,670	6-25-05
# Matt Hoffman (Plymouth Co.)	AFO	750	8-08-05
S.K. Food & Gas, Inc.; Diwan LLC (Davenport)	UT	8,500	12-29-05
Vernon Kinsinger (Washington Co)	SW	3,930	12-31-05
# Joel McNeil (Kossuth Co.)	AFO	2,500	1 21-06
Carl Cliburn (Wapello Co.)	AQ/SW	3,474	2-03-06
TOMA Properties, LLC (Washington)	WS	1,000	2-17-06
Affordable Asbestos Removal, Inc. (Monticello)	AQ	7,000	4-28-06
Jeff Albrecht (Humboldt Co.)	AQ	500	5-06-06
CRM Enterprises; Envirobest, Inc. (Iowa City)	AQ	7,000	5-21-06
West Central Cooperative (Ralston)	WW	3,000	6-12-06
James L. Heal; A-1 Imports (Homestead)	WW/SW	10,000	6-18-06
#*Tony Mertens (Mt. Pleasant)	AFO	2,644	7-20-06
#*E & N Farms, Ltd. (Lyon Co.)	AFO	1,100	9-01-06
#*Dale Schumann (Buena Vista Co.)	AFO	2,000	8-01-06
Michael Drea (Woodbury Co.)	AQ	6,000	8-13-06
*Dennis Kuehl (Cass Co.)	AFO	1,500	10-15-06
# Troy VanBeek (Lyon Co.)	AFO	3,500	10-16-06
Rueter & Zenor Co.; Rueters Red Power (Carroll) SEP	AQ/SW	400	11-06-06
# Randy Rudolph (Audubon Co.)	AFO	3,500	11-06-06
Larry Bergen (Worth Co.)	AQ/SW	2,000	11-01-06
* Fred Miller; Earthworks Contracting (Quimby)	AQ	8,020	12-15-06
* Country Terrace Mobile Home Park (Ames)	WW	920	3-01-07
* Waddell's Metal Recycling (Blue Grass)	AQ	1,500	3-01-07
* Wayne Staab (Plymouth Co.)	AQ	250	1-01-07
#*Galen Drent (Boyden)	AFO	1,510	2-01-07
Brian Salmon; Mid-States Asbestos Removal (Spirit Lake)	AQ	3,000	2-15-06
#*Randy Gergen; R & D Farms (Sioux Co.)	AFO	1,500	2-15-07
Brian Salmon; Mid-States Asbestos Removal (Spirit Lake)	AQ	3,000	2-15-07
* Crestview Mobile Home Park (Ames)	WW	1,750	3-01-07
* Curt Kline; Connie Kline (Dunlap)	AQ	1,000	3-01-07
Council Bluffs Community School District	AQ	3,500	3-08-07
# J & V Van Gorp, Inc. (Jasper Co.)		3,000	3-14-07
	AFO		
#*Harvey Driesen (Sioux Co.)	AFO	1,750	3-15-07
* Midway Water & Lighting Co., Inc. (Marion)	WS	1,500	3-20-07
#*John Kauffman (Iowa City)	AFO	4,368	3-20-07
* John Danker (Lee Co.)	AQ/SW	3,191	3-22-07
# J & V Van Gorp, Inc. (Jasper Co.)	AFO	3,000	3-23-07
#*Charles F. Deering, Jr. (Postville)	AFO	3,750	3-30-07
#*Richard Beelner; Beelner 1 and 2 (Plymouth Co.)	AFO	600	4-01-07
#*Michael and Karen Schieltz (Dubuque Co.)	AFO	3,635	4-07-07
#*Paul Rehder (O'Brien Co.)	AFO	750	5-01-07
* Tri Star Petroleum, LLC (Davenport)	UT	2,000	6-01-07
#*Charles Wauters (Keystone)	AFO/SW	3,500	12-01-07

#*Joe Tomka (Carroll Co.)	AFO	3,500	12-01-07
Green Valley Mobile Home Park (Mt. Pleasant)	WW	5,000	-----
TOTAL		464,725	

The following administrative penalties have been appealed:

NAME/LOCATION	PROGRAM	AMOUNT
Gerald and Judith Vens (Scott Co.)	FP	5,000
# Iowa Select Farms, L.P.; AG Waste Consultants (Hamilton Co.)	AFO	3,000
# Dan Witt (Clinton Co.)	AFO	3,000
Dallas County Care Facility (Adel)	WW	5,000
# Doug Wedemeyer (Adair Co.)	AFO	2,500
Mt. Pleasant, City of	WW	500
# Kenneth Dahlhauser (Whittemore)	AFO	2,500
Chelsea, City of	WW	3,000
# Doug Osweiler (South English)	AFO	5,000
# Ray Slach (Cedar Co.)	AFO	3,000
# Natural Pork Production, II LLC (Shelby Co.)	AFO	5,000
# Southern Waste Handling, Inc. (Mr. Ayr)	AFO	7,000
Country Living MHP (Altoona)	WW	5,000
Strawberry Point, City of	WW	10,000
B & H Food & Gas, Inc. (Davenport)	UT	10,000
U.S. Nation Mart, Inc. (Davenport)	UT	10,000
Tegh, Inc. (Bettendorf)	UT	8,500
# Jeff Holland (Winnebago Co.)	AFO	5,500
# T. Patrick and Laurie Cashman (Deep River)	AFO	750
# Bob Kerrigan (Union Co.)	AFO	750
Carpenter Bar & Grill (Carpenter)	WS	10,000
# Swine USA; Davis Finishing Site (Clarke Co.)	AFO	750
# Gettler Dairy (Guthrie Co.)	AFO	5,000
Iowa Ethanol, LLC; Reilly Construction Co. (Worth Co.)	WW	10,000
Broin & Assoc., Inc.; Iowa Ethanol, LLC (Worth Co.)	WS/WW	10,000
Broin & Assoc., Inc.; Otter Creek Ethanol (Osceola Co.)	WW	10,000
Iowa Falls, City of	WW	10,000
LeMars, City of	WW	9,000
Alton, City of	FP	5,000
# Jansma Cattle Co., Inc. (Lyon Co.)	AFO	10,000
# Phillip Renze; Doug Renze (Sac Co.)	AFO	2,000
# Michael Veenstra; Allan Veenstra (Mahaska Co.)	AFO	5,000
Gary Hart (Clinton)	AQ/SW	4,250
Cedar Rapids, City of	WW	5,000
# Mike Elsbernd (Winneshek Co.)	AFO	3,000
# Ted T. Smith (Buena Vista Co.)	AFO	3,000
S. J. Louis Construction, Inc. (Pleasant Hill)	WW	5,000
Monty Branstad (Winnebago Co.)	AQ/SW	8,000
Pleasant Hill, City of	WW	10,000
Lawler, City of	WW	3,000
Honey Creek Campground (Pottawattamie Co.)	WW	1,000
Peeters Development Co.; Mt. Joy MHP (Scott Co.)	WW	10,000
Randy Griffin (Jasper Co.)	AQ/SW	5,000
Hoover Land Corp.; River Road Golf Club (Algona)	WS	1,375
Dirk Graves (Glenwood)	AQ	1,000
Ruby Field, Inc.; Ed Grafke (Sigourney)	UT	5,112
# Ted Dickey dba Dickey Farms (Muscatine Co.)	AQ/SW/AFO	8,000

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Iowa Quality Beef Supply Cooperative (Tama)	WW	10,000
# Scott Lenz (Carroll Co.)	AFO	8,000
Edward Branstad; Jordan Branstad (Winnebago Co.)	AQ/SW	8,000
Bruce Piper; Piper Motor Company, Inc. (Bloomfield)	AQ/WW	10,000
TOTAL		290,487

The following administrative penalties have been collected:

NAME/LOCATION	PROGRAM	AMOUNT
# D & D Ag Enterprises, LLC (Union Co.)	AFO	600
Robert Barnes; Mechanical Systems Inc. (Council Bluffs)	AQ	1,500
* Tri-Star Petroleum, LLC (Davenport)	UT	2,000
#*Paul Rehder (O'Brien Co.)	AFO	375
* Midway Water & Lighting Co., Inc. (Marion)	WS	100
# Iowa Select Farms, LP; Swartz Finisher Farm (Hardin Co.)	AFO	250
Fairfield, City of	WW	2,500
* Waddell's Metal Recycling (Blue Grass)	AQ	250
# Injectsom, LLC (Grundy Center)	AFO	4,000
Midwest Grain Processors Cooperative (Lakota)	AQ	10,000
Jewell Implement Co. (Jewell)	AQ/SW	1,000
#*Galen Drent (Boyden)	AFO	166
# Douglas J. Pudenz (Carroll Co.)	AFO	7,000
St. Ansgar, City of	WW	1,000
* John Danker (Lee Co.)	AQ/SW	138
* Curt Kline; Connie Kline (Dunlap)	AQ	500
#*John Kauffman (Iowa City)	AFO	208
#*Richard Beelner; Beelner 1 and 2 (Plymouth Co.)	AFO	400
#*Michael and Karen Schieltz (Dubuque Co.)	AFO	365
# Dan Adams; Adams Pork (Polk City)	AFO	1,500
TOTAL		33,852

The following penalties were collected by Revenue during the Month of February.

Carl Cliburn (Wapello Co.)	AQ/SW	22
Daryl & Karen Hollingsworth d/b/a Medora Store(Indianola)	UT	250
# Lane Bachman (Calhoun Co.)	AFO	3,500
* Reginald Parcel (Henry Co.)	AQ/SW	150
# Jerry Vander Platts (O'Brien Co.) PAID IN FULL	AFO	40
TOTAL		3,962
TOTAL MONIES RECEIVED		37,814

Iowa Department of Natural Resources
Environmental Services Division

Report of Hazardous Conditions

During the period February 1, 2007, through February 28, 2007, 45 reports of hazardous conditions were forwarded to the central office. A general summary and count by field office is presented below. This does not include releases from underground storage tanks, which are reported separately.

Month	Total Incidents	Substance				Mode				
		Agri-chemical	Petroleum Products	Other Chemicals	Transport Facility	Fixed	Pipeline	Railroad	Fire	Other*
October	52 (48)	5 (6)	34 (29)	12 (13)	14 (13)	29 (28)	0 (0)	3 (2)	2 (1)	4 (4)
November	60 (55)	13 (10)	30 (35)	17 (10)	19 (16)	27 (28)	2 (0)	4 (3)	1 (1)	7 (7)
December	27 (51)	3 (5)	19 (32)	5 (14)	5 (18)	17 (29)	0 (2)	2 (1)	0 (0)	3 (1)
January	36 (62)	4 (4)	20 (35)	12 (23)	10 (18)	19 (32)	3 (0)	1 (1)	0 (0)	3 (11)
February	45 (49)	6 (2)	34 (36)	5 (11)	6 (10)	31 (35)	1 (1)	3 (2)	0 (0)	4 (1)
March	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
April	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
May	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
June	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
July	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
August	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
September	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
Total	220 (265)	31 (27)	137 (167)	51 (71)	54 (75)	123 (152)	6 (3)	13 (9)	3 (2)	21 (24)

(numbers in parentheses for same period last year)

Total Number of Incidents Per Field Office this Period:

*Other includes dumping, theft, vandalism and unknown

1	2	3	4	5	6
8	13	3	6	8	7

GENERAL DISCUSSION

Henry Marquard asked that the EPC adopt the NRC resolution for Senate file 309 on not splitting up the DNR.

Motion was made by Darrell Hanson to approve Henry's recommendation for a resolution on SF 309 to not split up the DNR. Seconded by Sue Morrow. Motion carried unanimously.

UAA Stream Analysis form

Richard Leopold said that there have been other organizations in contact with the DNR about the UAA process. We do give Steve Veysey our moral support and recognition of their efforts.

Darrell Hanson said that he does not want to endorse one organization's form over another. I believe that could raise some problems.

Motion was made by Darrell Hanson to give moral support and recognition of the value of their efforts. Seconded by Henry Marquard. Motion carried unanimously.

Wayne went over the agenda topics for next month:

Election of officers (Chair, Vice-Chair and Secretary) in May

Water Quality Standards in May

Landfill rules in June

Heat Pump rules in June (Informational)

Wastewater treatment plants should have back up power when storm events come through. This would help with the many by-passes that happen. There is a requirement in our permitting process that says your suppose to have back up power. Our field office staff is going to look at each facilities back up power to see what did and did not work.

Wayne thanked the outgoing Commissioners for their service and hard work.

Jerry Peckumn appointed David Petty to be the temporary chairperson to start next month's meeting.

NEXT MEETING DATES

May 1, 2007 – DNR Air Quality Building – 7900 Hickman Road, Urbandale

ADJOURNMENT

With no further business to come before the Environmental Protection Commission, Chairperson Jerry Peckumn adjourned the meeting at 6:00 p.m., Tuesday, April 2, 2007.

Richard A. Leopold, Director

Jerry Peckumn, Chair

Lisa Davis Cook, Secretary

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